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TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[1026 (Burley and Flue-53)-1]

PART 725—BURLEY AND FLUE-CURED TOBACCO

MARKETING QUOTA REGULATIONS, 1953–54 MARKETING YEAR

GENERAL

Sec.

FARM MARKETING QUOTAS AND MARKETING CARDS

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

RECORDS AND REPORTS

AUTHORITY: §§ 725.430 to 725.460 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply 52 Stat. 38, 47, 48, 65, 66, as amended; 7 U. S. C. 1301, 1313, 1314, 1372, 1373, 1374, 1375.

GENERAL

§ 725.430 *Basis and purpose.* Sections 725.430 to 725.460 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the issuance of marketing cards, the identification of tobacco, the collection and refund of penalties, and the records and reports incident thereto on the marketing of Burley and flue-cured tobacco during the 1953–54 marketing year. Prior to preparing §§ 725.430 to 725.460, public notice (18 F. R. 2475) of their formulation was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views and recommendations pertaining to §§ 725.430 to 725.460, which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 725.431 *Definitions.* As used in §§ 725.430 to 725.460, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1953, which has not been marketed or which has not been disposed of under § 725.443.

(c) Committees:

(1) "Community committee" means the persons elected within a community as the community committee pursuant to regulations governing the selection and functions of Production and Market-

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

ing Administration county and community committees.

(2) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Production and Marketing Administration county and community committees.

(3) "State committee" means the persons in a State designated by the Secretary as the State committee of the Production and Marketing Administration.

(d) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the county PMA office, or the person acting in such capacity.

(e) "Dealer" or "buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(f) "Director" means Director or Acting Director, Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture.

(g) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Assistant Administrator for Production, Production and Marketing Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(h) "Field assistant" means any duly authorized employee of the United States Department of Agriculture, and any duly authorized employee of a county PMA office whose duties involve the preparation and handling of records and reports pertaining to tobacco marketing quotas.

(i) "Floor sweepings" means scraps, leaves, or bundles of tobacco, generally of inferior quality, which accumulate on the warehouse floor and which not being subject to identification with any particular lot of tobacco are gathered up by the warehouseman for sale. Floor sweepings shall not include tobacco defined as "pick-ups"

(j) "Leaf account tobacco" means all tobacco purchased by or for a warehouseman and "leaf account" shall include the records required to be kept and copies of the reports required to be made under §§ 725.430 to 725.460 relating to tobacco purchased by or for a warehouseman and resales of such tobacco.

(k) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(l) "Nonwarehouse sale" means any first marketing of farm tobacco other than by sale at public auction through a warehouse in the regular course of business.

(m) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(n) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(o) "Pick-ups" means (1) "Pick-ups (a) " any tobacco sorted and reclaimed from leaves or bundles which have fallen to the warehouse floor in the usual course of business or (2) "Pick-ups (b) " any tobacco previously purchased at auction but not delivered to the buyer because of rejection by the buyer, lost ticket, or any other reason, and which is not turned back to a dealer other than the warehouseman and shall include tobacco delivered to the buyer but returned by the buyer to the warehouseman, and which is not turned back to a dealer other than the warehouseman.

(p) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(q) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(r) "Resale" means the disposition by sale, barter, exchange, or gift inter vivos, of tobacco which has been marketed previously.

(s) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(t) "Scrap tobacco" means the residue which accumulates in the course of preparing flue-cured tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(u) "Secretary" means the Secretary or Acting Secretary of Agriculture of the United States.

(v) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and be responsible for the day-to-day operations of the State PMA office, or the person acting in such capacity.

(w) "Suspended sale" means any first marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the sale day on which such marketing occurred.

(x) "Tobacco" means Burley tobacco, type 31, or flue-cured tobacco types 11, 12, 13 and 14, as classified in Service and Regulatory Announcement No. 118 (7 CFR Part 30) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or both, as indicated by the context.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths as either Burley or flue-cured tobacco shall be considered respectively either Burley or flue-cured tobacco regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(y) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1953 plus any carryover tobacco, less any tobacco disposed of in accordance with § 725.443.

(z) "Tobacco subject to marketing quotas" means:

(1) Any Burley tobacco marketed during the period October 1, 1953, to September 30, 1954, inclusive, and any Burley tobacco produced in the calendar year 1953 and marketed prior to October 1, 1953.

(2) Any flue-cured tobacco marketed during the period July 1, 1953, to June 30, 1954, inclusive, and any flue-cured tobacco produced in the calendar year 1953 and marketed prior to July 1, 1953.

(aa) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers.

(bb) "Warehouseman" means a person who engages to any extent in the business of holding sales of tobacco at public auction at a warehouse.

(cc) "Warehouse sale" means a marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, and shall include all lots or baskets of tobacco marketed in sequence at a given time.

§ 725.432 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions as are necessary, for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Assistant Administrator for Production, Production and Marketing Administration.

§ 725.433 *Extent of calculations and rule of fractions.* (a) The acreage of tobacco harvested on a farm in 1953 shall be expressed as follows:

(1) In the case of flue-cured tobacco the harvested acreage shall be expressed in tenths and fractions of less than one-tenth acre shall be dropped. For example, 4.56 acres would be 4.5 acres.

(2) In the case of Burley tobacco the harvested acreage shall be expressed in tenths rounding upward all fractions of six hundredths of an acre or more and dropping all fractions of five hundredths of an acre or less. For example, 1.16 acres would be 1.2 acres and 1.15 acres would be 1.1 acres.

(b) The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.63 cents per pound would be 3.6 cents and 0.063 cent per pound would be 0.06 cent.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 725.434 *Amount of farm marketing quota.* (a) The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with §§ 725.411 to 725.428, 1023 (Burley and Flue-53)-3, Burley and Flue-cured Tobacco Marketing Quota Regulations, 1953-54, as amended (17 F. R. 6063, 17 F. R. 6809, 17 F. R. 10758) The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1953 times the farm acreage allotment.

(b) The excess tobacco on any farm shall be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1953 times the number of acres harvested in excess of the farm acreage allotment plus (2) any excess carry-over tobacco. The acreage of tobacco determined for a farm for the purpose of issuing the correct marketing card for the farm, as provided in § 725.436, shall be considered the harvested acreage for the farm unless the farm operator furnishes proof satisfactory to the county committee that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage harvested will be disposed of other than by marketing.

§ 725.435 *Transfer of farm marketing quota.* There shall be no transfer of farm marketing quotas except as provided in §§ 725.420 and 725.426 of the Burley and Flue-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1953–54 marketing year.

§ 725.436 *Issuance of marketing cards.* (a) A marketing card shall be issued for each farm having tobacco available for marketing. Subject to the approval of the county office manager, two or more marketing cards may be issued for any farm. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the county PMA office of the marketing card after all of the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the county office manager to have been lost, destroyed or stolen.

(b) *Within Quota Marketing Card (MQ–76—Tobacco)* A Within Quota Marketing Card authorizing the marketing without penalty of the tobacco available for marketing shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1953 is not in excess of the farm acreage allotment and any excess carry-over tobacco from any prior marketing year can be marketed without penalty under the provisions of § 725.442 (b)

(2) If all excess tobacco produced on the farm is disposed of in accordance with § 725.443 (b) or

(3) If the tobacco was grown for experimental purposes on land owned or leased by a publicly owned agricultural experiment station and is produced at public expense by employees of the experiment station, or if the tobacco was produced by farmers pursuant to an agreement with a publicly owned experiment station whereby the experiment station bears the costs and risks incident to the production of the tobacco and the proceeds from the crop inure to the benefit of the experiment station: *Provided,* That such agreement is approved by the State committee prior to the issuance of a marketing card for the farm.

(c) *Excess Marketing Card (MQ–77—Tobacco)* An Excess Marketing Card showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued unless a within quota card is required to be issued for the farm under paragraph (b) of this section, except that (1) if the farm operator fails to disclose, or otherwise furnish, or prevents the representative of the county committee from obtaining, any information necessary to the issuance of the correct marketing card, an excess marketing card shall be issued showing that all tobacco from the farm is subject to the rate of penalty set forth in § 725.445, or (2) if for any farm there is penalty due for 1952 or any prior year because of a failure to satisfactorily account for the disposition of any tobacco or because of the false or improper identification of tobacco, a "zero percent" excess marketing card shall be issued for such farm, except that, if the county committee with the approval of the State committee determines that one or more producers on the farm did not cause, aid or acquiesce in the violation for which the penalty became due, such producer(s) shall be entitled to a within quota marketing card for marketing their proportionate share(s) of the tobacco available for marketing.

§ 725.437 *Person authorized to issue cards.* The county office manager shall be the issuing officer and shall sign marketing cards for farms in the county. The issuing officer may designate not more than three persons to sign his name in issuing marketing cards: *Provided,* That each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 725.438 *Rights of producers in marketing cards.* Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card issued for the farm for marketing his proportionate share.

§ 725.439 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 725.440 *Invalid cards.* (a) A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) Entries are omitted or incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made, and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which cannot be corrected by a field assistant) the farm operator, or the person having the card in his possession, shall return it to the county PMA office at which it was issued.

(c) If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by a field assistant, then such card shall become valid.

§ 725.441 *Report of misuse of marketing card.* Any information which causes a field assistant, a member of a State, county, or community committee, or an employee of a State or county PMA office, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the county or State PMA office.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 725.442 *Extent to which marketings from a farm are subject to penalty.* (a) Marketings of tobacco from a farm having no carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 725.443 by the total acreage of tobacco harvested from the farm.

(b) Marketings of tobacco from a farm having carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows:

(1) Determine the number of "carry-over" acres by dividing the number of pounds of carry-over tobacco from the prior years by the normal yield for the farm for that year.

(2) Determine the number of "within quota carry-over acres" by multiplying the "carry-over acres" (subparagraph (1) of this paragraph) by the "percent within quota" (i. e. 100 percent minus the percent excess) for the year in which the carry-over tobacco was produced, except that if the excess portion of the carry-over tobacco is disposed of under § 725.443, the "percent within quota" shall be 100.

(3) Determine the "total acres" of tobacco by adding the "carry-over acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1953 allotment and the "within quota carry-over acres" (subparagraph (2) of this paragraph)

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph)

(6) Those persons having an interest in the carry-over tobacco for a farm shall be liable for the payment of any penalty due thereon.

(c) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty by the percent excess obtained under paragraph (a) or (b) of this section. The memorandum of sale issued to identify each such mar-

keting shall show the amount of penalty due.

§ 725.443 *Disposition of excess tobacco.* The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by either of the following methods:

(a) By storage of the excess tobacco, the tobacco so stored to be representative of the entire 1953 crop produced on the farm, and posting of a bond approved by the county committee in the penal sum of twice the rate of penalty per pound set forth in § 725.445, times the quantity of excess tobacco stored. Penalty at the applicable full rate per pound on marketings of excess tobacco shall become due upon the removal from storage of the excess tobacco, except that an amount of such tobacco in storage equal to the normal production of the acreage by which the 1954 harvested acreage plus any acreage added with respect to any excess carry-over tobacco for the farm pursuant to § 725.442 (b) is less than the 1954 allotment may be removed from storage and marketed penalty free.

If the 1953 harvested acreage is less than the 1953 allotment an amount of any tobacco from the farm which was placed under storage for a prior marketing year equal to the normal production of the acreage by which the 1953 harvested acreage plus any acreage added with respect to any excess carry-over tobacco for the farm pursuant to § 725.442 (b) is less than the 1953 allotment may be marketed penalty free.

(b) By furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

§ 725.444 *Identification of marketings.* Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1953 marketing card (MQ–76—Tobacco or MQ–77—Tobacco) issued for the farm on which the tobacco was produced. In addition, in the case of nonwarehouse sales each marketing shall also be identified by an executed bill of nonwarehouse sale (reverse side of memorandum of sale)

(a) *Memorandum of sale.* If a memorandum of sale is not executed to identify a warehouse sale of producer's tobacco by the end of the sale day on which the tobacco was marketed, the marketing shall be a suspended sale, and, unless a memorandum identifying the tobacco so marketed is executed on or before the last warehouse sale day of the marketing season, or within four weeks after the date of marketing, whichever comes first, the marketing shall be identified by MQ–82—Tobacco, Sale Without Marketing Card, as a marketing of excess tobacco. The memorandum of sale or MQ–82—Tobacco shall be executed only by a field assistant or other representative of the State administrative officer with the following exceptions:

(1) A warehouseman, or his representative, who has been authorized on MQ–78—Tobacco, may issue a memorandum of sale to identify a warehouse sale if a field assistant is not available at the warehouse when the marketing card is presented. Each memorandum of sale issued by a warehouseman to cover a warehouse sale shall be presented promptly by him to the field assistant for verification with the warehouse records.

(2) In the case of flue-cured tobacco only, a dealer, or his authorized representative, operating a receiving point for scrap tobacco at a redrying plant (and other regular receiving points operated by such dealer or his agent or employees) or at an auction warehouse, who keeps records showing the information specified in § 725.452, and who has been authorized on MQ–78—Tobacco, may issue a memorandum of sale covering a purchase of scrap tobacco only if the bill of nonwarehouse sale has been executed.

The authorization of MQ–78—Tobacco to issue memoranda of sale may be withdrawn by the State administrative officer from any warehouseman or dealer if such action is determined to be necessary in order to properly enforce the provisions of §§ 725.430 to 725.460. The authorization shall terminate upon receipt of written notice setting forth the reason therefor.

Each excess memorandum of sale issued by a field assistant shall be verified by a warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the memorandum of sale.

(b) *Bill of nonwarehouse sale.* Each nonwarehouse sale shall be identified by a bill of nonwarehouse sale completely executed by the buyer and the farm operator.

The word "scrap" shall be plainly written on any bill of nonwarehouse sale or memorandum of sale executed to cover scrap tobacco, and all such bills of nonwarehouse sale shall be delivered to a person at a scrap receiving point who is authorized to issue memoranda of sale.

Each bill of nonwarehouse sale covering any marketing except scrap tobacco shall be presented to a field assistant for the issuance of a memorandum of sale and for recording in MQ–79—Tobacco.

§ 725.445 *Rate of penalty.* (a) The penalty per pound upon marketings of excess tobacco subject to marketing quotas shall be twenty (20) cents per pound in the case of Burley tobacco and twenty (20) cents per pound in the case of flue-cured tobacco.

(b) With respect to tobacco marketed from farms having excess tobacco available for marketing the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm quota is of the total amount of tobacco available for marketing from the farm.

§ 725.446 *Persons to pay penalty.* The person to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Warehouse sale.* The penalty due on marketings by a producer through a warehouse shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonwarehouse sale.* The penalty due on tobacco purchased directly from a producer other than at public auction through a warehouse shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Marketings through an agent.* The penalty due on marketings by a producer through an agent who is not a warehouseman shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 725.447 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Warehouse sale.* Any warehouse sale of tobacco by a producer which is not identified by a valid memorandum of sale on or before the last warehouse sale day of the marketing season or within four weeks following the date of marketing, whichever comes first, shall be identified by a MQ–82—Tobacco, and shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(b) *Nonwarehouse sale.* Any nonwarehouse sale which (1) is not identified by a valid bill of nonwarehouse sale (reverse side of memorandum of sale) and (2) is not also identified by a valid memorandum of sale and recorded in MQ–79—Tobacco within one week following the date of purchase, or if purchased prior to the opening of the local auction markets, is not identified by a valid memorandum of sale and recorded in MQ–79—Tobacco within one week following the first sale day of the local auction markets, shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing by a warehouseman which such warehouseman represents to be a leaf account resale but which when added to prior leaf account resales, as reported under §§ 725.430 to 725.460, is in excess of prior leaf account purchases shall be deemed to be a marketing of excess tobacco unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale but which when added to prior resales by such dealer is in excess of the total of his prior purchases as reported on MQ–79—Tobacco shall be deemed to be a marketing of excess tobacco unless and until such dealer furnishes proof acceptable to the State committee showing that such marketing is not a mar-

keting of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Marketings not reported.* Any resale of tobacco which under §§ 725.430 to 725.460 is required to be reported by a warehouseman or dealer but which is not so reported within the time and in the manner required by §§ 725.430 to 725.460 shall be deemed to be a marketing of excess tobacco unless and until such warehouseman or dealer furnishes a report of such resale which is acceptable to the State committee. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Producer marketings.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1953 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm. The penalty thereon shall be paid by the producer.

§ 725.448 *Payment of penalty.* (a) Penalties shall become due at the time the tobacco is marketed, except in the case of tobacco removed from storage as provided in § 725.443 (a) and shall be paid by remitting the amount thereof to the State PMA office not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) If the penalty due on any warehouse sale of tobacco by a producer as determined under §§ 725.430 to 725.460 is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges) the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through an auction warehouse.

(c) Nonwarehouse sales, including sales of scrap tobacco, shall be subject to the converted rate of penalty for the farm on which the tobacco was produced without regard to the net proceeds of the sale.

§ 725.449 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for marketing from the farm and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 725.430 to 725.460 to be paid. Such request shall be filed with the county PMA office within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 725.450 *Producer's records and reports*—(a) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1953 shall return to the county PMA office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than 30 days after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within fifteen (15) days after written notice by the county office manager shall constitute failure to account for disposition of tobacco marketed from the farm, and in the event that a satisfactory account of such disposition is not furnished otherwise, the allotment next established for such farm shall be reduced as provided in Burley and flue-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1954–55 marketing year.

(b) *Additional reports by producers.* In addition to any other reports which may be required under §§ 725.430 to 725.460, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall upon written request by registered mail from the State administrative officer within fifteen (15) days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary a written report of the disposition made of all tobacco produced on the farm by sending the same to the State PMA office showing, as to the farm at the time of filing said report, (1) the number of acres of tobacco harvested, (2) the total production of tobacco, (3) the amount of tobacco on hand and its location, and (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested or the filing of a report which is found by the State committee to be incomplete or incorrect shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the Burley and flue-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1954–55 marketing year.

§ 725.451 *Warehouseman's records and reports*—(a) *Record of marketing.* Each warehouseman shall keep such records as will enable him to furnish the State PMA office with respect to each warehouse sale of tobacco made at his warehouse the following information:

(1) The name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a sale by a producer, and in the case of a resale the name of the seller.

(2) Date of sale.

(3) Number of pounds sold.

(4) Gross sale price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s), and in addition with respect to each individual basket or lot of tobacco constituting the warehouse sale the following information:

(6) Name of purchaser.

(7) Number of pounds sold.

(8) Gross sale price.

Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

(i) Nonwarehouse sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales for the warehouse leaf account.

(iii) Resales of floor sweepings.

(iv) Resales of pick-ups, with respect to both subparagraphs (1) and (2) as defined in § 725.431 (o)

Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the State PMA office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register* The serial number of the memorandum of sale issued to identify each warehouse sale by a producer or the number of warehouse bill(s) covering each such sale shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale and bill of nonwarehouse sale.* A record in the form of a valid memorandum of sale or a sale without marketing card shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through the warehouse and each nonwarehouse sale of tobacco purchased by or for the warehouseman. For a nonwarehouse sale of tobacco purchased by or for a warehouseman, no memorandum of sale shall be issued unless the bill of nonwarehouse sale on the reverse side of the memorandum is executed. Any warehouseman who obtains possession of any scrap tobacco in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "Suspended," write thereon the serial number of the suspended sale, and record the bills on MQ–83—Tobacco, Field Assistant's Report: *Provided,* That if a field assistant is not available, the warehouseman may stamp such bills "Suspended," and deliver them to a field assistant when one is available.

(e) *Warehouse entries on dealer's record.* Each warehouseman shall record on MQ–79—Tobacco the total purchases and resales made by each dealer or other warehouseman during each sale

day at the warehouse and enter his initials in the space provided. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1953 the entry on MQ–79—Tobacco shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ–79—Tobacco, Dealer's Record, showing:

(1) All purchases of tobacco directly from producers other than at public auction through a warehouse (nonwarehouse sales)

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

(g) *Season report of warehouse business.* Each warehouseman shall furnish the State PMA office not later than thirty (30) days following the last sale day of the marketing season a report on MQ–80—Tobacco, Auction Warehouse Report, showing (1) for each dealer or buyer, as originally billed, the total pounds and gross amount of tobacco purchased and resold on the warehouse floor; (2) the total pounds and gross amount of "loan tobacco" billed to any association; (3) the total pounds and gross amount of all leaf account tobacco purchased and resold and of all pick-ups (§ 725.431 (o) (1) or (2)) or floor sweepings sold by the warehouseman at public auction over his own warehouse floor; (4) the pounds and estimated value of all tobacco on hand at the time of filing the report and whether such tobacco represents leaf account tobacco, pick-ups (§ 725.431 (o) (1) or (2)) or floor sweepings; (5) the total pounds and gross amount of all tobacco purchased directly from farmers other than at public auction through a warehouse; and (6) the total pounds and gross amount of all purchases over other warehouse floors or from dealers other than warehousemen and all resales over other warehouse floors or to dealers other than warehousemen.

(h) *Report of penalties.* Each warehouseman shall make reports on MQ–81—Tobacco, Report of Penalties, showing for each sale of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds sold; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such sale. MQ–81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the State PMA office not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(i) *Report of resales.* Each warehouseman shall make reports on MQ–86—Tobacco, Report of Resales, showing for each resale of tobacco at auction on the warehouse floor (1) the warehouse bill number; (2) the name on the warehouse bill; (3) the name of the seller, or in the case of a resale for the warehouse, whether such resale represents leaf account tobacco, pickups, or floor sweepings; (4) the registration number and State of the person making the resale; (5) the number of pounds sold; and (6) the gross amount for the sale. MQ–86—Tobacco shall be prepared for each sale day and forwarded to the State PMA office not later than the end of the calendar week following the week in which the tobacco was resold.

(j) *Additional records and reports by warehousemen.* Each warehouseman shall keep such records and furnish such reports to the State PMA office, in addition to the foregoing, as the State committee may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 725.430 to 725.460

§ 725.452 *Dealer's records and reports.* Each dealer, except as provided in § 725.453, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the State PMA office "Receipt for Dealer's Record" contained in MQ–79—Tobacco which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on MQ–79—Tobacco, Dealer's Record, showing all purchases and resales of tobacco made by or for the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1953, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1953.

(c) *Report of penalties.* Each dealer shall make a report on MQ–81—Tobacco, Report of Penalties, showing for each purchase of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds purchased; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such purchase. MQ–81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the State PMA office not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(d) *Memorandum of sale and bill of nonwarehouse sale.* A bill of nonwarehouse sale and a memorandum of sale from the 1953 marketing card issued for the farm on which the tobacco was produced shall be obtained by a dealer to cover each purchase of tobacco directly from a producer other than at auction through a warehouse. No memorandum of sale shall be issued identifying such purchase unless the bill of nonwarehouse sale on the reverse side of the memorandum of sale has been executed.

(e) *Record and report of scrap tobacco.* Each dealer operating a receiving point for scrap tobacco who has been authorized on MQ–78—Tobacco to issue memoranda of sale shall keep a record and make reports on MQ–79—Tobacco showing all tobacco received. Such reports shall be accompanied by memoranda of sale and bills of nonwarehouse sale with respect to all tobacco covered by the reports.

(f) *Additional records.* Each dealer shall keep such records in addition to the foregoing as will enable him to furnish the State PMA office with respect to each lot of tobacco purchased by him the following information:

(1) The name of the warehouse through which the tobacco was purchased in the case of a warehouse sale; the name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a nonwarehouse sale; and the name of the seller in the case of purchases directly from warehouseman or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s) and with respect to each lot of tobacco sold by him the following information:

(6) Name of the warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than a warehouse sale.

(7) Date of sale.

(8) Number of pounds sold.

(9) Gross sale price.

(10) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to 1953 the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the State PMA office not later than the end of the week following the calendar week covered by the reports.

§ 725.453 *Dealers exempt from regular records and reports.* Any dealer or buyer who does not purchase or otherwise acquire tobacco except at warehouse sales, or directly from dealers other than warehousemen, and who does not resell in the form in which tobacco ordinarily is sold by farmers more than 10 percent of such tobacco so purchased by him shall not be subject to the provisions of § 725.452: *Provided, however* That any such dealer or buyer who purchases tobacco at nonwarehouse sale, or from a warehouseman other than at warehouse sale shall be subject to the provisions of § 725.452 with respect to such purchases. Each such dealer or buyer shall make such reports to the Director, in addition to the foregoing, as he may find necessary to enforce §§ 725.430 to 725.460, and each dealer or buyer who is not subject to the provisions of § 725.452 shall make such reports to the Director as he may find necessary to enforce §§ 725.430 to 725.460.

§ 725.454 *Records and reports of truckers and persons redrying, prizing or stemming tobacco.* (a) Each person engaged to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually

marketed by producers shall keep such records as will enable him to furnish the State PMA office a report with respect to each lot of tobacco received by him showing (1) the name and address of the producer, (2) the date of receipt of the tobacco, (3) the number of pounds received and (4) the name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of redrying, prizing or stemming tobacco for producers shall keep such records as will enable him to furnish the Director a report showing (1) the information required above for truckers, and in addition, (2) the purpose for which the tobacco was received, (3) the amount of advance made by him on the tobacco, and (4) the disposition of the tobacco.

Each such person shall make such reports to the Director as he may find necessary to enforce §§ 725.430 to 725.460.

§ 725.455 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, trucker, or as a person engaged in the business of redrying, prizing or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 725.456 *Failure to keep records or make reports.* Any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under §§ 725.430 to 725.460, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing or stemming tobacco for producers shall be given by the Director.

§ 725.457 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination upon written request by the State administrative officer or Director, such books, papers, records, accounts, cancelled checks, correspondence, contracts, documents, and memoranda as the State administrative officer or Director has reason to believe are relevant and are within the control of such person.

§ 725.458 *Length of time records and reports are to be kept.* Records required to be kept and copies of the reports required to be made by any person under §§ 725.430 to 725.460 for the 1953–54 marketing year shall be kept by him until June 30, 1956, in the case of flue-cured tobacco, and September 30, 1956, in the case of Burley tobacco. Records shall be kept for such longer period of time as may be requested in writing by the Director.

§ 725.459 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 725.430 to 725.460 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of county and community committees and all county PMA office employees and only such data so reported or acquired as the Assistant Administrator for Production, Production and Marketing Administration, deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

§ 725.460 *Redelegation of authority.* Any authority delegated to the State committee by §§ 725.430 to 725.460 may be redelegated by the State committee.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 26th day of May 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-4739; Filed, May 29, 1953; 8:48 a. m.]

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter I—Determination of Prices

[Sugar Determination 871.6]

PART 871—SUGAR BEETS

1953 CROP

Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, and due consideration of evidence presented at the several public hearings held in October 1952 (for southern Oregon, California and southwestern Arizona), and during December 1952 (for States other than those regions), the following determination is hereby issued:

§ 871.6 *Fair and reasonable prices for the 1953 crop of sugar beets.* A processor of sugar beets who, as a producer, applies for a payment under the act will be deemed to have complied with the provisions of section 301 (c) (2) of said act with respect to the 1953 crop of sugar beets, if such processor shall have paid (or contracted to pay) for sugar beets purchased from other producers and processed by said processor prices not less than those provided for in the 1953 crop purchase contract between said parties: *Provided,* That the processor shall not reduce returns to producers below those determined herein through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes the level of prices to be paid by a processor for 1953 crop sugar beets purchased from other producers. It prescribes the minimum requirements with respect to prices which must be met as one of the conditions for payment under the act.

(b) *Requirements of the act and standards employed.* In determining fair and reasonable prices, the act requires that public hearings be held and investigations made. Accordingly, public hearings were held at Berkeley, California, on October 28, 1952 and Detroit, Michigan; St. Paul, Minnesota, Billings, Montana, Salt Lake City Utah; and Greeley, Colorado, during the period December 1 through December 10, 1952. In addition, investigations have been made of conditions relating to the sugar beet industry.

In the 1953 crop price determination, consideration has been given to testimony presented at the public hearings, comparative returns, costs and profits of processors and producers, relative investments, contracts negotiated between the parties, and to other pertinent economic factors.

(c) *1953 fair price determination.* The 1953 price determination provides that a processor shall be deemed to have complied with the fair price provisions of the act if he pays, or contracts to pay, for sugar beet prices not less than those provided for in his 1953 crop purchase contracts with producers.

Most of the 1953 crop purchase contracts are identical to those used for the 1952 crop. Payment scales were revised in contracts used by two processors. In one, prices payable per ton of sugar beets were increased a few cents at and above net return levels of $8.00 per hundred pounds of refined beet sugar, while in the other, the producers' share of sugar proceeds was increased one-half of one percent at net return levels of $7.00 to $7.49 and an additional one-half of one percent at net returns of $7.50 and above. Other changes in various contracts included new methods of determining "top tare" on mechanically harvested beets, prices for or availability of certain types of sugar beet seed, and a modification of the minimum require-

ments for acceptable beets. The effects of the foregoing changes on the average returns to producers for 1953 crop sugar beets are considered to be of little consequence.

At the public hearing four producer representatives presented testimony but none of them made specific recommendations with respect to the 1953 crop price determination. Two witnesses called attention to decreased acreage of sugar beets and to prices of beets as compared with prices for competing crops. Two witnesses pointed out that certain marketing practices of processors in selling sugar tended to reduce returns to growers and suggested that such practices be prohibited. These same practices were the subject of discussion at the hearing for the 1952 crop fair price determination. No action is taken with regard to this suggestion because the authority under section 301 (c) (2) of the act does not extend to regulation of competitive trade practices with respect to the sale of sugar.

In analyzing the 1953 crop purchase contracts, consideration has been given to comparative operating results of processors and producers which, for this purpose, have been estimated by restating data obtained in previous cost studies to reflect probable results under 1953 crop, price, and volume conditions. The analysis indicates that prices payable for sugar beets in 1953 crop purchase contracts are fair and reasonable at the present level of sugar prices (8.75 cents per pound, seaboard basis, refined cane sugar) and at sugar prices within the expected range above and below the present level.

Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U. S. C. Sup. 1131)

Issued this 26th day of May 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-4744; Filed, May 29, 1953; 8:49 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Plum Order 2]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

REGULATION BY GRADES AND SIZES

§ 936.446 *Plum Order 2*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than June 2, 1953. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until May 20, 1953; recommendation as to the need for, and the extent of, regulation of shipments of such plums was made at the meeting of said committee on May 20, 1953, after consideration of all available information relative to the supply and demand conditions for such plums, at which time the recommendation and supporting information was submitted to the Department; shipments of the current crop of such plums are expected to begin on or about June 8, 1953; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time of this section.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., June 2, 1953, and ending at 12:01 a. m., P. s. t., November 1, 1953, no shipper shall ship any package or container of Santa Rosa plums unless:

(i) Such plums grade at least U. S. No. 1, and

(ii) Such plums are of a size not smaller than a size that will pack a 4 x 5 standard pack.

(2) Section 936.143 of the rules and regulations, as amended (§ 936.100 et seq., 18 F. R. 712, 2839), sets forth the requirements with respect to the inspection and certification of shipments of plums. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(3) As used in this section, "U. S. No. 1" and "serious damage" shall have the same meaning as set forth in the revised United States Standards for plums and prunes (fresh), § 51.360 of this title; "standard pack" shall have the applicable meanings of the terms "standard pack" and "equivalent size" as when used in § 936.142 of the aforesaid amended rules and regulations; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 27th day of May 1953.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-4749; Filed, May 29, 1953; 8:48 a. m.]

[Plum Order 3]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

REGULATION BY GRADES AND SIZES

§ 936.447 *Plum Order 3*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than June 2, 1953. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until May 20, 1953; recommendation as to the need for, and the extent of, regulation of shipments of such plums was made at the meeting of said com-

mittee on May 20, 1953, after consideration of all available information relative to the supply and demand conditions for such plums, at which time the recommendation and supporting information was submitted to the Department; shipments of the current crop of such plums are expected to begin on or about June 6, 1953; and this section should be applicable to all such shipments of such plums in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time of this section.

(b) *Order* (1) During the period beginning at 12:01 a. m., P. s. t., June 2, 1953 and ending at 12:01 a. m., P. s. t., November 1, 1953 no shipper shall ship any package or container of Formosa plums unless:

(i) Such plums grade at least U. S. No. 1 with a total tolerance of ten (10) percent for defects not considered serious damage in addition to the tolerances permitted for such grade; and

(ii) Such plums are of a size not smaller than a size that will pack a 4 x 5 standard pack.

(2) Section 936.143 of the rules and regulations, as amended (§ 936.100 et seq., 18 F. R. 712, 2839) sets forth the requirements with respect to the inspection and certification of shipments of plums. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(3) As used in this section, "U. S. No. 1" and "serious damage" shall have the same meaning as set forth in the revised United States Standards for plums and prunes (fresh) § 51.360 of this title; "standard pack" shall have the applicable meanings of the terms "standard pack" and "equivalent size" as when used in § 936.142 of the aforesaid amended rules and regulations; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 27th day of May 1953.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-4741; Filed, May 29, 1953; 8:48 a. m.]

[Plum Order 4]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

REGULATION BY GRADES AND SIZES

§ 936.448 *Plum Order 4*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than June 10, 1953. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until May 20, 1953; recommendation as to the need for, and the extent of, regulation of shipments of such plums was made at the meeting of said committee on May 20, 1953, after consideration of all available information relative to the supply and demand conditions for such plums, at which time the recommendation and supporting information was submitted to the Department; shipments of the current crop of such plums are expected to begin on or about June 16, 1953; and this section should be applicable to all such shipments of such plums in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time of this section.

(b) *Order* (1) During the period beginning at 12:01 a. m., P. s. t., June 10, 1953, and ending at 12.01 a. m., P. s. t., November 1, 1953 no shipper shall ship any package or container of Climax plums unless:

(i) Such plums grade at least U. S. No. 1 with a total tolerance of ten (10) percent for defects not considered serious damage in addition to the tolerances permitted for such grade; and

(ii) Such plums are of a size not smaller than a size that will pack a 4 x 5 standard pack.

(2) Section 936.143 of the rules and regulations, as amended (§ 936.100 et seq., 18 F. R. 712, 2839) sets forth the requirements with respect to the inspection and certification of shipments of plums. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(3) As used in this section, "U. S. No. 1" and "serious damage" shall have the same meaning as set forth in the revised United States Standards for plums and prunes (fresh) § 51.360 of this title; "standard pack" shall have the applicable meanings of the terms "standard pack" and "equivalent size" as when used in § 936.142 of the aforesaid amended rules and regulations; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 27th day of May 1953.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-4742; Filed, May 29, 1953; 8:49 a. m.]

[Lemon Reg. 487]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.594 *Lemon Regulation 487*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 14 F. R. 3612), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as provided in this section, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effec-

tive time; and good cause exists for making the provisions of this section effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified in this section was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on May 27, 1953, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time of this section.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., May 31, 1953, and ending at 12:01 a. m., P. s. t., June 7, 1953, is hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 650 carloads;

(iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is set forth below and made a part of this section by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2" and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 28th day of May 1953.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

DISTRICT NO. 2

[Storage date: May 24, 1953]

[12:01 a. m. May 31, 1953, to 12:01 a. m. June 14, 1953]

Handler	Prorate base (percent)
Total	100.000
American Fruit Growers, Inc., Corona	730
American Fruit Growers, Inc., Fullerton	.992
American Fruit Growers, Inc., Upland	745
Consolidated Lemon Co.	1.766

PRORATE BASE SCHEDULE—Continued

DISTRICT NO. 2—continued

Handler	Prorate base (percent)
Ventura Coastal Lemon Co.	1.301
Ventura Pacific Co.	1.541
Chula Vista Mutual Lemon Association	.632
Index Mutual Association	.555
La Verne Cooperative Citrus Association	3.004
Ventura County Orange & Lemon Association	2.277
Glendora Lemon Growers Association	2.321
La Verne Lemon Association	.931
La Habra Citrus Association	2.036
Yorba Linda Citrus Association, The	1.025
Escondido Lemon Association	3.192
Cucamonga Mesa Growers	2.105
Etiwanda Citrus Fruit Association	.369
San Dimas Lemon Association	2.393
Upland Lemon Growers Association	8.415
Central Lemon Association	1.276
Irvine Citrus Association	.940
Placentia Mutual Orange Association	1.057
Corona Citrus Association	705
Corona Foothill Lemon Co.	3.047
Jameson Co.	1.309
Arlington Heights Citrus Co.	1.546
College Heights Orange & Lemon Association	3.747
Chula Vista Citrus Association, The	792
Escondido Cooperative Citrus Association	.251
Fallbrook Citrus Association	2.110
Lemon Grove Citrus Association	.526
Carpinteria Lemon Association	1.332
Carpinteria Mutual Citrus Association	1.379
Goleta Lemon Association	2.653
Johnston Fruit Co.	3.163
North Whittier Heights Citrus Association	1.007
San Fernando Heights Lemon Association	1.931
Sierra Madre-Lamanda Citrus Association	.934
Briggs Lemon Association	1.892
Culbertson Lemon Association	1.094
Fillmore Lemon Association	1.083
Oxnard Citrus Association	3.922
Rancho Sespe	1.806
Santa Clara Lemon Association	2.684
Santa Paula Citrus Fruit Association	3.629
Saticoy Lemon Association	2.100
Seaboard Lemon Association	3.045
Somis Lemon Association	2.782
Ventura Citrus Association	.929
Ventura County Citrus Association	.251
Limoneira Co.	2.383
Teague-McKevett Association	763
East Whittier Citrus Association	.882
Murphy Ranch Co.	1.685
Dunning Ranch	.000
Far West Produce Distributors	.000
Huarte, Joseph D.	.094
Paramount Citrus Association, Inc.	.676
Santa Rosa Lemon Co.	.182
Torn Ranch	.001

[F. R. Doc. 53-4786; Filed, May 29, 1953; 8:45 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter A—Farm Housing Loans

[FHA Instruction 401.11]

PART 301—BASIC REGULATIONS

MISCELLANEOUS AMENDMENTS

EDITORIAL NOTE: In F. R. Doc. 53-4660, appearing at page 3055 of the issue for Thursday, May 28, 1953, the title following the signature of True D. Morse appears incorrectly. The title should read "Acting Secretary of Agriculture"

Subchapter D—Water Facilities Loans

[FHA Instruction 442.6]

PART 356—PROCESSING LOANS TO ASSOCIATIONS

FIDELITY BONDS

Correction

In F. R. Doc. 53-4682, appearing at page 3057 of the issue for Thursday, May 28, 1953, the title following the signature of True D. Morse should read "Acting Secretary of Agriculture."

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

PART 224—DISCOUNT RATES

ADVANCES TO PERSONS OTHER THAN MEMBER BANKS

Pursuant to section 14 (d) of the Federal Reserve Act, and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, § 224.4, relating to advances to individuals, partnerships, or corporations other than member banks secured by direct obligations of the United States under the last paragraph of section 13 of the Federal Reserve Act, is amended so as to change the percentage rate for the Federal Reserve Bank of St. Louis from 2½ to 3, effective May 18, 1953.

For the reasons and good cause found as stated in § 224.7, there is no notice, public participation, or deferred effective date in connection with this action.

(Sec. 11 (i), 38 Stat. 262; 12 U. S. C. 248 (i). Interpret or apply sec. 14 (d), 38 Stat. 264, as amended; 12 U. S. C. 357)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 53-4730; Filed, May 29, 1953; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 37]

PART 610—MINIMUM EN ROUTE IFR ALTITUDES

MISCELLANEOUS AMENDMENTS

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to pro-

vide for safety in air commerce. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 610 is amended as follows:

1. Section 610.13 *Green civil airway No. 3* is amended to read in part:

From—	To—	Minimum altitude
Egbert (INT), Wyo....	Kimball (INT), Nebr.	6,600
Kimball (INT), Nebr..	Chappell (INT), Nebr.	5,900
Chappell (INT), Nebr.	North Platte, Nebr. (LFR).	5,100
North Platte, Nebr. (LFR).	Grand Island, Nebr. (LFR).	4,100
Grand Island, Nebr. (LFR).	Weston (INT), Nebr.	3,000

2. Section 610.107 *Amber civil airway No. 7* is amended to read in part:

From—	To—	Minimum altitude
Riverdale, Md. (LF/RBN).	Relay (INT), Md.....	1,600

3. Section 610.231 *Red civil airway No. 31* is amended to read in part:

From—	To—	Minimum altitude
Scottsbluff, Nebr. (LFR).	Chadron, Nebr. (LF/RBN).	5,700
Philip, S. D. (LF/RBN).	Pierre, S. D. (LFR)....	3,400

4. Section 610.626 *Blue civil airway No. 26* is amended by adding:

From—	To—	Minimum altitude
Nenana, Alaska (LFR).	Nenabank (INT), Alaska.	2,500

5. Section 610.641 *Blue civil airway No. 41* is amended to read in part:

From—	To—	Minimum altitude
Greenfield (INT), Mass.	Concord, N. H. (LFR).	5,000

6. Section 610.669 *Blue civil airway No. 69* is amended to read in part:

From—	To—	Minimum altitude
St. Louis, Mo. (LFR)..	Quincy, Ill. (LF/RBN).	2,000

7. Section 610.1001 *Direct routes; Northeast United States* is amended by adding:

From—	To—	Minimum altitude
Otis AFB, Mass. (LF/RBN).	Martha's Vineyard, Mass. (LF/RBN).	1,500
Martha's Vineyard, Mass. (LF/RBN).	Int. 196°–16° mag. crs. Martha's Vineyard, Mass. (LF/RBN) and W crs. Nantucket, Mass. (VAR).	1,300
Martha's Vineyard, Mass. (LF/RBN).	Nantucket, Mass. (VAR) and/or Nantucket, Mass. (LF/RBN).	1,300

8. Section 610.1003 *Direct routes; Southwest United States* is amended to read in part:

From—	To—	Minimum altitude
Lufkin, Tex. (LF/RBN).	Tyler, Tex. (LFR).....	2,000

9. Section 610.6012 *VOR civil airway No. 12* is amended to read in part:

From—	To—	Minimum altitude
Indianapolis, Ind. (VOR) via N. alter.	Dayton, Ohio (VOR) via N. alter.	2,500

10. Section 610.6019 *VOR civil airway No. 19* is amended by adding:

From—	To—	Minimum altitude
El Paso, Tex. (VOR)..	Harrington Ranch (INT), N. Mex.	8,500

11. Section 610.6019 *VOR civil airway No. 19* is amended to read in part:

From—	To—	Minimum altitude
Harrington Ranch [1] (INT), N. Mex.	Truth or Consequences, N. Mex. (VOR).	10,000

[1] 10,000'—Minimum crossing altitude at Harrington Ranch (INT), northbound.

12. Section 610.6020 *VOR civil airway No. 20* is amended by adding:

From—	To—	Minimum altitude
Mobile, Ala. (VOR)...	Evergreen, Ala. (VOR).	1,500

13. Section 610.6027 *VOR civil airway No. 27* is amended to read in part:

From—	To—	Minimum altitude
Crescent City, Calif. (VOR).	North Bend, Oreg. (VOR).	6,400
North Bend, Oreg. (VOR).	Newport, Oreg. (VOR).	4,500

14. Section 610.6027 *VOR civil airway No. 27* is amended to eliminate:

From—	To—	Minimum altitude
Crescent City, Calif. (VOR).	Medford, Oreg. (VOR).	8,000

15. Section 610.6121 *VOR civil airway No. 121* is added to read:

From—	To—	Minimum altitude
North Bend, Oreg. (VOR).	Eugene, Oreg. (VOR).	5,000

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective June 2, 1953.

[SEAL] S. A. KEMP,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 53-4643; Filed, May 29, 1953; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5771]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

NAMSCO, INC.

Subpart—*Discriminating in price under section 2, Clayton Act as amended*—Price discrimination under 2 (a) § 3.715 *Charges and price differentials.* In the sale of wheels, discs, hub caps, exhaust extensions, gas tank caps, radiator caps and wheel parts, such as nuts, bolts and studs, or other automotive parts or supplies of like grade and quality in commerce, discriminating in price between different purchasers of said products by selling such products of like grade and quality to any purchaser at prices lower than those granted other purchasers who, in fact, compete, or whose customers compete, with the favored purchaser or purchasers in the resale and distribution of such product; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U. S. C. 13) [Cease and desist order, Namsco, Inc., Chicago, Ill., Docket 5771, March 17, 1953]

In the Matter of Namsco, Inc. (Formerly National Wheels and Parts Manufacturing Co., Inc.)

This proceeding was heard by Frank Hier, hearing examiner, upon the complaint of the Commission charging respondent with violation of subsection (a) of section 2 of the Clayton Act as amended, respondent's answer, and hearings at which testimony and other evidence in support of the allegations of the complaint were introduced before said examiner, theretofore duly designated by the Commission, and were duly recorded and filed in the office of the Commission.

Thereafter, following the filing of a motion to strike evidence from the record and a motion to dismiss the complaint, which were denied by said examiner, and respondent's election to offer no testimony or other evidence in opposition to that received in support of the complaint, the record was closed and the proceeding regularly came on for final consideration by said examiner on the complaint, answer thereto, testimony and other evidence, proposed findings as to the facts, conclusions, and proposed order submitted by counsel, and said examiner, having duly considered the record in the matter, made his initial decision, comprising certain findings as to the facts,[1] conclusions drawn therefrom,[1] and order to cease and desist.

Thereafter, following the service of said examiner's initial decision and action of the Commission in extending the date on which it would otherwise have become its decision, the matter was disposed of by the "Decision of the Commission and order to file report of compliance" Docket 5771, March 17, 1953, as follows:

Service of the initial decision of the hearing examiner in this proceeding having been completed on the 10th day of September 1951, and the Commission having, on the 10th day of October 1951, extended until further order of the Commission the date on which the said initial decision would otherwise become the decision of the Commission; and

The Commission having duly considered the record herein and being of the opinion that said initial decision is adequate and appropriate to dispose of this proceeding:

It is ordered, That the initial decision of the hearing examiner, a copy of which is attached, shall, on the 17th day of March 1953, become the decision of the Commission.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Said order to cease and desist in said initial decision, thus made the decision of the Commission, is as follows:

It is ordered, That respondent Namsco, Inc., a corporation, formerly National Wheels and Parts Manufacturing Company, Inc., its officers, representatives, agents and employees, directly or through any corporate or other device, in the sale of wheels, discs, hub caps, exhaust extensions, gas tank caps, radiator caps and wheel parts, such as nuts, bolts and studs, or other automotive parts or supplies of like grade and quality in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist, directly or indirectly, from discriminating in price between different purchasers of said products by selling such products of like grade and quality to any purchaser at prices lower than those granted other purchasers who, in fact, compete, or whose customers compete, with the favored purchaser or purchasers in the resale and distribution of such products.

Issued: March 17, 1953.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-4750; Filed, May 29, 1953; 8:51 a. m.]

[1] Filed as part of original document.

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

REGULATION A–R: EXEMPTION OF FIRST LIEN NOTES

Purpose of revision. The Securities and Exchange Commission has amended Regulation A–R under the Securities Act of 1933. This regulation exempts from registration under the act certain notes secured by a first lien on real estate.

The previous exemption was available only for notes secured by liens on residential property, whereas the revised regulation applies to notes secured by liens on either residential or commercial property. The maximum amount of notes which may be offered under the revised exemption has been raised from $25,000 to $100,000. The revised regulation provides that the principal amount of each note to be offered thereunder shall not be less than $500 and the total number of notes on any single property shall not exceed 125. The previous exemption limited each note to a minimum of $250 and the total number offered to 25. The revised regulation also provides that the aggregate unpaid principal amount of all indebtedness secured by all liens on the property shall not exceed 75 percent of the appraised value of such property.

The revised regulation, like the previous one, does not require the filing of any papers or documents with the Commission.

Statutory basis. The revision is adopted pursuant to the Securities Act of 1933, particularly sections 3 (b) and 19 (a) thereof, the Commission deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under the act.

Sec.
230.230 Securities exempt.
230.231 Amount of securities exempted.
230.232 Limitation upon aggregate indebtedness.
230.233 Limitations upon notes to be offered.

AUTHORITY: §§ 230.230 to 230.233 issued under sec. 19, 48 Stat. 85, as amended; 15 U. S. C. 77a.

§ 230.230 *Securities exempt.* Promissory notes secured by a first lien on real estate upon which is located a dwelling or other residential or commercial property shall be exempt from registration under the act if such notes are offered in accordance with the terms and conditions of §§ 230.230 to 230.233.

§ 230.231 *Amount of securities exempted.* Neither the aggregate unpaid principal amount of the notes secured by the lien on any single property nor the aggregate amount at which such notes are offered to the public shall exceed $100,000.

§ 230.232 *Limitation upon aggregate indebtedness.* The aggregate unpaid principal amount of all indebtedness secured by all liens on any single property shall not exceed 75 percent of the appraised value of such property.

§ 230.233 *Limitations upon notes to be offered.* (a) The principal amount of each note to be offered under §§ 230.230 to 230.233 shall not be less than $500, and the total number of notes on any single property shall not exceed 125.

(b) The notes shall be sold for cash or purchasers' obligations to pay cash within 60 days after sale.

Effective date. The Commission finds that the revised regulation will operate to the advantage of issuers proposing to offer securities under Regulation A–R, that it is consistent with the interests of investors, and that notice and procedure in accordance with Section 4 of the Administrative Procedure Act with respect to such revision is not necessary.

The revision, being one relieving a restriction, shall become effective upon publication May 25, 1953.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

MAY 25, 1953.

[F. R. Doc. 53-4736; Filed, May 29, 1953; 8:47 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[6th Gen. Rev. of Export Regs., Amdt., P. L. 42[1]]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

[1] This amendment was published in Current Export Bulletin No. 703, dated May 21, 1953.

(1) The following commodities are added to the Positive List:

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar-value limits	Validated license required
619039	Welding rods and wires: Zinc [1]	Lb.	NONF	500	RO

[1] By this amendment, the last entry presently on the Positive List is revised to read as follows: "Other welding rods and wires."

This part of the amendment shall become effective as of 12:01 a. m., June 1, 1953.

2. The following commodities are deleted from the Positive List:

Dept. of Commerce Schedule B No.	Commodity
	Metal manufactures, n. e. c., and parts, n. e. c.:
	Other metals, except precious (specify by name and type of metal):
619950	Aluminum molding; aluminum collapsible tubes; and aluminum shot (report crude form of aluminum shot in 630070).[1]
619950	Other aluminum and aluminum-base alloy manufactures, n. e. c.
619950	Other brass or bronze manufactures n. e. c.
619950	Invar metal manufactures.
619950	Magnesium manufactures.[2]

[1] By this amendment, the first entry presently on the Positive List under Schedule B No. 619950 is revised to read as follows: "Aluminum slugs." This commodity is subject to evidence of availability requirements (see § 373.3 of this subchapter).

[2] These commodities are presently included in the last entry on the Positive List under Schedule B No. 619950; this last entry is amended to read as follows: "Manufactures of other metals, n. e. c., except: aluminum and aluminum-base alloy manufactures other than slugs; anti-friction, antimony, babbit metal, beryllium and beryllium alloy manufactures; bimetallic brake linings, clutch facings, and friction material; brass or bronze manufactures; copper, and zinc manufactures; invar metal manufactures; magnesium manufactures; and tin manufactures other than shot, slugs, and collapsible tubes (report iron and steal manufactures in 619910; precious metal manufactures in 692990-699710)."

This part of the amendment shall become effective as of 12:01 a. m., May 21, 1953.

Shipments of any commodities removed from general license to Country Group R or Country Group O destinations as a result of changes set forth in Part 1 of this amendment which were on dock, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a. m., May 28, 1953, may be exported under the previous general license provisions up to and including June 20, 1953. Any such shipment not laden aboard the exporting carrier on or before June 20, 1953, requires a validated license for export.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director
Office of International Trade.

[F. R. Doc. 53-4746; Filed, May 29, 1953; 8:50 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

Subchapter J—Procurement Procedures

PART 1012—GOVERNMENT PROPERTY

Part 1012 is added to Subchapter J as follows:

SUBPART A—GENERAL

Sec.
1012.101 Definitions.
1012.102 General policy.
1012.103 Facilities.

SUBPART B—MATERIEL

[Reserved.]

SUBPART C—SPECIAL TOOLING

[Reserved.]

SUBPART D—INDUSTRIAL FACILITIES

1012.401 Award of supply contracts.
1012.402 Right of contractor to use.

SUBPART E—CONTRACT CLAUSES

1012.501 Special tooling clause for fixed-price contracts.

SUBPART F—SALE OF PROPERTY

1012.601 Scope of subpart.
1012.602 Exchange or sale of personal property and application of proceeds to purchase of similar items.

SUBPART G—BAILMENTS

1012.701 General.
1012.702 Policy.
1012.703 Contract provisions.

AUTHORITY: §§ 1012.101 to 1012.703 issued under R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interpret or apply 62 Stat. 21; 41 U. S. C. 151-161.

DERIVATION: Sec. XIII, AFM 70-6.

SUBPART A—GENERAL

§ 1012.101 *Definitions.* (a) "Bailment" is the delivery of Government property by the Air Force to a contractor in trust for a specific purpose directly related to a prime Air Force contract, with a written agreement that such trust shall be faithfully executed and the property returned, or duly accounted for, to the Air Force when the special purpose is accomplished. Bailment does not include sale, donation, lease, the furnishing of property to a contractor under a facilities contract, nor the furnishing of Government-furnished property or Government-furnished aircraft equipment.

(b) "Expendable property" is that property which will lose its identity or be expended in the course of its use.

(c) "Bailment agreement" is an instrument which accomplishes the actual loan of the property, and contains all information concerning the individual loan, including an adequate description of the property; purpose of the loan; use to be made of the property; authorization for modifications which may be incorporated in the property; the place where the property is to be delivered and returned; the period of bailment; and so forth.

(d) "Government-furnished aircraft equipment" (GFAE) is that portion of Government-furnished property which under the terms of an Air Force airframe contract is procured by the Air Force and furnished direct to aircraft equipment or missile manufacturers for inclusion or incorporation in aircraft or missiles.

CROSS REFERENCE: For section of Armed Services Procurement Regulation which this section implements see § 412.101 of this title.

§ 1012.102 *General policy.* The policy of the Department of the Air Force is that Government property shall be furnished to contractors, including subcontractors, only when specifically provided for in the terms of a written contract, bailment agreement, or lease. Any deviation from this policy shall be granted only by the prior written approval of the Director, Procurement and Production Engineering, Deputy Chief of Staff, Materiel, Headquarters USAF

CROSS REFERENCE: For section of Armed Services Procurement Regulation which this section implements see § 412.102 of this title.

§ 1012.103 *Facilities.* Subject to other procurement considerations (such as broadening the industrial base), the conservation of critical materials and the maximum utilization of existing facilities requires that, in the placing of supply contracts, preference should be given first to those contractors who have available existing buildings and facilities and secondly, to those contractors who require the least amount of additional facilities for the performance of the work in the supply contract. When determination has been made that new facilities are essential, preference shall be given to those contractors who will themselves finance the acquisition of such facilities. As far as practicable, direct payment or direct reimbursement by the Government for the cost of new facilities shall be confined to facilities which themselves constitute a separate unit (on land which is owned or controlled by the Government), or which are readily removable or separable from the contractor's existing plant without unreasonable expense or loss of value. Therefore, to the extent feasible, buildings shall not be erected at the Government's expense on land owned by the contractor. If such location of facilities is not feasible, the nonseverable, nondisposable facilities will be furnished pursuant to provisions of § 412.406-1 of this title: *Provided, however,* That when feasible, the facilities contract will provide for a specified standby period subsequent to contract termination or expiration, and such other terms and conditions in the interest of the Government as may be obtainable under the circumstances.

CROSS REFERENCE: For section of Armed Services Procurement Regulation which this section implements see § 412.102-3 of this title.

SUBPART B—MATERIEL

[Reserved.]

SUBPART C—SPECIAL TOOLING

[Reserved.]

SUBPART D—INDUSTRIAL FACILITIES

§ 1012.401 *Award of supply contracts.* (a) The proposals for the approval of the scope and magnitude of facilities shall be submitted to Headquarters USAF, for appropriate action. List No. 1, set forth in this section, consists of major items which are to be included in processing letters forwarded to Headquarters USAF in support of facility expansion requests. The processing letter will precede the approval of facility expansion proposals, except in the following instances:

(1) Facility expansion proposals wherein the total expansion cost is less than $500,000, which do not include any real property transaction set forth in sec. 601, Pub. Law 155; 82d Cong. (sec. 601, 65 Stat. 366; 40 U. S. C. 551) Included in this total cost are those items shown in Schedules I through V, List No. 1, set forth in this section.

(2) Facility expansion regardless of the amount wherein the facilities involved represent only machinery and equipment to be provided for Government-owned plants.

Where the exceptions mentioned in subparagraphs (1) and (2) of this paragraph apply, a processing letter need not precede the issuance of a procurement directive. But the request for the issuance of a procurement directive must contain at least the information described in paragraphs 1, 2, 3, and 6 of List No. 1 set forth in this section. Furthermore, where the exceptions above apply, the required processing letter will be forwarded to Headquarters USAF within 10 days after the receipt of the procurement directive, or if this is not possible, Headquarters USAF will be advised within the same 10 day period why such a procedure is impracticable. In any event, the request for the issuance of a procurement directive will contain, as a minimum, the information described in paragraphs 1, 2, 3, and 6 of List No.1.

LIST NO. 1—INFORMATION FOR PROCESSING LETTERS

1. State the name of contractor.

2. Give plant identification and location. State whether Government- or contractor-owned plant.

3. Give justification for expansion. State present firm requirements for item involved, present capacity, peak rate to be established, and estimated date peak rate can be reached. If capacity peak exceeds production schedule requirement peak, state justification therefor, including estimated added cost involved.

4. Give a breakdown of costs in estimated round figures:

Schedule	*Amount*
I. Land and land improvements	
II. Buildings and building installations	
III. Machinery, equipment, and so forth	
IV. Automotive and portable tools	
V. Installation of equipment cost	
Total	

5. State general nature and scope of work in Schedules I and II and general character of facilities in III and IV.

6. State percentage of expansion required because of MDAP or Navy requirements. If a requirement does exist for MDAP or Navy, the applicable aircraft production schedule from which the requirements were computed will be identified. Cite the funds proposed for the expansion, and the basis for proration if other than Air Force funds are required.

7. State whether there will be separate consideration for use of the facilities and, if not, the effect on the competitive situation.

8. Provide certification that a reasonable search failed to disclose satisfactory existing facilities capable of the production for which authority to construct or expand is being requested, and that facilities being requested cannot be obtained elsewhere at less cost or in sufficient time to meet production requirements.

9. When a facilities proposal involves a real estate action, described in paragraphs a through e of section 601, P. L. 155; 82d Cong., provide Headquarters USAF with a draft of an Air Force real property transaction proposal for submission to the House and Senate Armed Services Committees for their approval. Appendix A, below, establishes the form for the submission of these proposals.

10. Furnish a statement to the effect that such factors (when applicable) as labor availability, power, water, transportation, and industrial dispersion have been considered as a part of this expansion proposal.

APPENDIX A—DEPARTMENT OF THE AIR FORCE

Submitted by the Under Secretary of the Air Force

Real Estate

Acquisition Project No. ------

Submitted pursuant to Public Law 155, 82d Congress.
Name of Installation:
Interest to be acquired:
Use:
Area:
Estimated Cost:
Authorization Act:
Appropriation Act:
In brief narrative form:

PAR. 1. Justification and reasons for acquisition, with brief outline of project.

PAR. 2. More specific information, giving general description and type, present use, number of ownerships, valuation and basis thereof, assessed values and relationship to market value and tax losses, and the estimated loss of tax revenue to local communities by reason of Government acquisition. Give any background to acquisition.

PAR. 3. Any pertinent information on peculiar circumstances of acquisition, relation to local problems, roads, and so forth, power and utility relocation, and the like.

PAR. 4. Certification that presently no Government-owned or leased property is available, and a statement as to whether property is to be acquired by the military agency or if procurement of space is a responsibility under GSA. Amount of initial alterations to leased property. (This paragraph applies only to leasing projects.)

PAR. 5. Approval of the committee for the acquisition herein outlined is respectfully requested.

(b) Minor expansion projects or continuing capital expenditures involving less than $100,000 need not be submitted to Headquarters USAF for processing. Action taken in matters of this category shall be reported in the Quarterly USAF Industrial Facilities Status Report, AF Form 365 (Reports Control Symbol AF 13).

CROSS REFERENCE: For section of Armed Services Procurement Regulation which this section implements see § 412.401 of this title.

§ 1012.402 *Right of contractor to use.* (a) No-charge use of facilities is applicable to subcontractors and suppliers as well as prime supply contractors.

(b) Facilities may be furnished to prime contractors and subcontractors (including suppliers) under a facilities contract containing a clause which permits the use of such facilities on a charge or no-charge basis, depending on the terms of the prime contract concerned. Thus, if the price or fee of the prime contract is contingent on the use of such facilities without charge, the facilities may be made available to the prime contractor on that basis. Where such facilities are furnished to a subcontractor or supplier, the use of such facilities on a no-charge basis is predicated on the authorization for such use contained in the prime contract and the negotiation of the subcontract or purchase order on the basis of such authorization. The purpose and effect of these provisions will be to permit the buyer for the prime supply contract to control the use of the property on (1) a charge basis and on (2) a no-charge basis, respectively.

(c) The buyer for the prime supply contract will be responsible for obtaining adequate consideration for the no-charge use of facilities by the using contractors or subcontractors (including suppliers) and also for insuring that the using contractors or subcontractors (including suppliers) are not accorded undue competitive advantage by such use.

(d) The responsibility for policing the use by a contractor of new facilities rests with the administrative contracting officer of the facilities contract. In the determination of whether a no-charge use of facilities shall be authorized, consideration shall be given to the practicability of the administrative burden on the administrative contracting officer in policing such contracts and subcontracts.

CROSS REFERENCE: For section of Armed Services Procurement Regulation which this section implements see § 412.407 of this title.

SUBPART E—CONTRACT CLAUSES

§ 1012.501 *Special tooling clause for fixed-price contracts.* (a) The following clause may be used whenever the "special tooling" is described as an end item in the contract for administrative convenience in pricing and payment, but delivery to the Air Force for use by the Air Force is not intended:

SPECIAL TOOLING

(1) Same as § 412.504 (a) of this title.
(2) Same as § 412.504 (b) of this title.
(3) Same as § 412.504 (c) of this title.
(4) Same as § 412.504 (d) of this title.
(5) Same as § 412.504 (e) of this title.
(6) Within 90 days after receipt of any list or notice under subparagraphs (3) or (4) of this paragraph, or such further period as may be agreed upon by the parties, the contracting officer shall furnish to the contractor:

(i) A list specifying the particular products, parts, or services for which the Government may require special tooling, with a request that the contractor deliver to the Government all usable items of special tooling which were used or designed for the manufacture or performance of any designated portion of such products, parts, or services, and which were on hand when production of such products or parts, or performance of such services, ceased; or

(ii) An acceptance or rejection of any offer made by the contractor under subparagraph (5) of this paragraph, or a request for further negotiation relating thereto; or

(iii) Subject to the provisions of subparagraph (10) of this paragraph a direction to the contractor to sell, or to dispose of as scrap, for the account of the Government, any or all the special tooling covered by such list; or

(iv) A statement with respect to any or all the special tooling covered by such list that the Government has no further interest therein and waives its rights therein; or

(v) Any combination of the foregoing, as the circumstances warrant. The contractor shall promptly comply with any request by the contracting officer under this section to deliver any items of special tooling, and shall, subject to the provisions of subparagraph (10) of this paragraph:

(*a*) Immediately prepare such items for shipment by proper packaging, packing, and marking, in accordance with any instructions which may be issued by the contracting officer, and shall promptly deliver such items to the Government, as directed by the contracting officer; or

(*b*) If a storage agreement has been entered into, prepare such items for storage in accordance therewith, as directed by the contracting officer. Any items of special tooling so delivered or stored shall be accompanied by operation sheets or other appropriate data necessary to show the manufacturing operations or processes for which such items were used or designed. If the contracting officer has requested further negotiations under subparagraph (6) (ii) of this paragraph, the contractor agrees that it will enter into such negotiations in good faith with the contracting officer. Any items of special tooling which are not disposed of by delivery to the Government under this section, or by acceptance of an offer of the contractor made under subparagraph (5) of this paragraph or of such offer as modified in the course of negotiations, shall be disposed of in the manner set forth in subparagraphs (6) (iii) or (iv) of this paragraph.

(7) Same as § 412.504 (g) of this title.
(8) Same as § 412.504 (h) of this title.
(9) Same as § 412.504 (i) of this title.
(10) Same as § 412.504 (j) of this title.
(11) Same as the second undesignated paragraph of § 412.504 (k) of this title.
(12) Title to all special tooling shall pass to and vest in the Government upon acquisition thereof by the contractor: *Provided, however,* That the contractor's obligations, the Government's rights, and property control procedures relating thereto shall apply as set forth in this clause. The provisions of this contract relating to "Liability for Government-Furnished Property," and any other provision of this contract defining liability for Government shall be inapplicable to property to which the Government shall have acquired title solely by virtue of the provisions of this section. The provisions of this section shall not relieve the contractor from any risk of loss, or destruction, or damage to property to which title vests in the Government under the provisions hereof or be construed as enlarging upon the contractor's obligations as specified in this clause.

(b) Contracts which contain the clause provided by § 412.504 of this title may be amended in the above cited manner so as to provide that title to the tooling will vest in the Government immediately when it is deemed necessary for administrative reasons to establish the Government as owner of the tooling, prior to the occurrence of any of the events set forth in § 412.504 (c) or (d) of this title.

CROSS REFERENCE: For section of Armed Services Procurement Regulation which this section implements see § 412.504 of this title.

SUBPART F—SALE OF PROPERTY

§ 1012.601 *Scope of subpart.* This subpart sets forth policies governing the sale of Government property to contractors, and implements Part 412 of this title, generally, rather than a specific part thereof.

§ 1012.602 *Exchange or sale of personal property and application of proceeds to purchase of similar items.* This section prescribes rules under which the Department of the Air Force may exchange or sell similar items and apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired.

(a) *Scope.* Exchange of personal property by the Department of the Air Force and the application of the exchange allowance or proceeds of sale of personal property to the acquisition of personal property by the Department of the Air Force under section 201 (c) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 384, 40 U. S. C. 481 (c)) shall be made only in accordance with the provisions of this section.

(b) *General authorization.* Subject to the provisions of this section, the head of a procuring activity is hereby authorized, in acquiring personal property within the United States or elsewhere, to exchange or sell similar items and apply the exchange allowance or the proceeds of sale in such cases, in whole or in part payment for the property acquired. Any transactions executed under this authorization shall be evidenced in writing.

(c) *Restrictions and limitations.* (1) This section authorizes the application of exchange allowances or proceeds of sale in whole or part payment for personal property acquired only when:

(i) The item sold or exchanged are similar to the items acquired (see subparagraph (2) of this paragraph, for clarification of the word "similar") and

(ii) The items acquired are to be used (whether or not intended for additional uses) in the performance of all or substantially all of the tasks or operations in which the items exchanged or sold would otherwise be used, but the items acquired need not be the same in number nor used in the same location as the items sold or exchanged. *Provided,* That the limitation prescribed in this section shall not apply with respect to parts or containers: *And provided further,* That the detailed cross-identification between old and new items will not be required in the absence of specific requirements of law, but in the absence of such cross-identification, there shall be furnished to the General Accounting Office sufficient data to establish that the items acquired were similar to the items exchanged or sold, that any exchange allowances or proceeds of sale applied in whole or in part payment of property acquired were in fact available for such application, and that the transaction was otherwise in accordance with the provisions of this procedure; and

(iii) There has been at the time of transfer or sale an administrative determination to apply the exchange allowance or proceeds of sale in acquiring property in accordance with this section which determination shall support each schedule of collections covering such proceeds of sale; and

(iv) The transaction will foster the economical and efficient accomplishment of an approved program.

(v) The items to be sold or exchanged have been screened for utilization by other Government agencies through the Surplus Materials Division, Bureau of Supplies and Accounts, Department of the Navy, and the Naval Aviation Supply Office, in accordance with paragraph (e) of this section.

(2) Items shall be deemed "similar" for the purpose of this section when:

(i) They are substantially alike in all material aspects and characteristics, excluding, however, condition, year, model, size or capacity and manufacturer; or

(ii) The head of a procuring activity, or his representative duly authorized for the purpose, finds, in writing, that they resemble each other in most material aspects and characteristics and are adaptable to the same or comparable uses, which finding shall support each purchase document covering property acquired pursuant thereto; or

(iii) The constitute parts of or for assembled items, or containers for items, which items are similar within the meaning of subparagraphs (1) or (2) of this paragraph.

(3) This section shall not be construed to authorize:

(i) The acquisition of personal property by a procuring activity when such acquisition is not otherwise authorized by law;

(ii) The acquisition of personal property by a procuring activity in contravention of:

(*a*) Any restriction upon the procurement of a commodity or commodities; or

(*b*) Any replacement policy or standard, prescribed by the President or by the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 383; 40 U. S. C. 481)

(iii) The purchase or acquisition of personal property otherwise than under a consolidated purchasing or stores program or Federal Supply Schedule contract where procurement under such

program or contract is required by regulations or other directives prescribed by the Administrator; *Provided*, That a procuring activity acquiring an item or items under and in accordance with such program or contract may sell or exchange similar items and apply the exchange allowance or proceeds of sale as provided in this section; or

(iv) The sale, transfer, or exchange of excess or surplus property in connection with the purchase or acquisition of personal property: *Provided*, That a procuring activity obtaining items of excess or surplus property as authorized by law may thereafter exchange or sell such items and apply the exchange allowance or proceeds of sales in accordance with this section.

(4) This section shall not apply to strategic and critical materials which have been accepted for the national stockpile.

(d) *Reporting for screening.* (1) All personal property (exclusive of unserviceable and obsolete items) to be sold or exchanged under the provisions of this section will be reported for screening on Standard Form 120, "Report of Excess Personal Property".

(i) The Naval Aviation Supply Office, Philadelphia, Pennsylvania (if property is aircraft, aircraft parts and components) or to

(ii) The Surplus Materials Division, Bureau of Supplies and Accounts, Department of the Navy, Washington 25, D. C. (other reportable property) unless the exchange is proper without solicitation of bids and the need for action will not permit the waiting period required for screening prior to direct exchange.

(2) The reporting activity is authorized to submit a competent appraisal of the cash market value of an item or items reported.

(3) Each reporting form used to list items to be screened will be clearly marked with the notation, "This material for sale or exchange under provisions of General Services Administration Personal Property Management Regulation No. 6, Revised, 7 September 1951."

(e) *Screening of personal property in the interest of utilization prior to sale or exchange.* This paragraph sets forth the rules and procedures under which personal property will be screened prior to the application of the authority granted in this section.

(1) Items reported for sale or exchange in accordance with this section will be screened by the Naval Aviation Supply Office, Philadelphia, or by the Surplus Materials Division, Bureau of Supplies and Accounts, Department of the Navy, as the case may be, for utilization by the other two military departments, and will be offered concurrently to the General Services Administration for possible utilization by other Government agencies. Military requests for any property reported will be given first priority. A fair exchange price will be determined either by:

(i) The reporting activity, by competent appraisal of the cash market value; or

(ii) The Department of Defense Fair Value Code as set forth below:

FAIR VALUE CODE

Condition code	Maximum percent of acquisition cost
N1	70
N2	55
E1	50
O1	45
N3–E2	40
O2	35
N4–E3–R1	30
O3	25
E4–R2	20
O4	15
R3	10
R4	5

(2) Screening by the Naval Aviation Supply Office, Philadelphia, and by the Surplus Materials Division, Bureau of Supplies and Accounts, Department of the Navy, and the General Services Administration will be limited to a period of 60 days from the date the report is forwarded to the Aviation Supply Office, or to the Surplus Materials Division, at the expiration of which time the material not utilized will be released to the reporting activity for sale or exchange.

(f) *Sale.* (1) The head of a procuring activity is encouraged to utilize the services of property disposal officers with respect to the sale of property.

(2) Disposition of proceeds of sales will be in accordance with applicable regulations.

SUBPART G—BAILMENTS

§ 1012.701 *General.* Government personnel having knowledge of bailable property in possession of contractors without contractual coverage shall report such information to the cognizant Air Force representative.

§ 1012.702 *Policy.* (a) Bailment of Government property to Air Force contractors shall be kept to an absolute minimum, consistent with the best interest of the Government.

(b) Government property may be bailed only in accordance with procedures prescribed herein, and shall not be issued to a contractor by hand receipt or other informal means.

(c) Government property may be bailed only if such bailment does not adversely affect the competitive aspects of procurement.

(d) Government property shall not be bailed to a subcontractor but may be bailed to the prime contractor for use by its subcontractor: *Provided*, That the responsibility of the prime contractor is not lessened.

(e) Government property may be bailed only if it is not available to the contractor in the open market, or if it is so available, to the contractor within the time requirements of the Air Force.

(f) Government property shall not be bailed for the purpose of being incorporated in the end article, for the repair of maintenance of bailed property, nor if it will be expended in the performance of a contract.

(g) Government property shall not be bailed for the purpose of its maintenance, repair, overhaul, or modification regardless of whether the contractor is required to perform ground and/or flight or other functional tests to prove such maintenance, repair, overhaul, or modification, and whether such property is currently being produced or already delivered to the Government. This does not prohibit the furnishing of such property as GFP under the prime contract.

(h) Government property shall not be bailed for the purpose of installing additional equipment in such property. This does not prohibit the bailment of property for the purpose of testing the equipment already installed.

(i) Facilities as defined in § 412.101–6 of this title shall not be bailed.

§ 1012.703 *Contract provisions.* Bailment agreements will not be issued unless the prime contract includes a provision therefor. The following general provisions relating to prime contract clauses are set forth for guidance:

(a) Normally, in fixed-price contracts, no reference will be made to the bailment of property unless the property is specifically listed in the prime contract. Where bailment is contemplated and a Master Bailment Agreement has been executed, the following clause is authorized for use:

It is contemplated by the parties hereto that the Government will loan (in addition to any property listed in this contract as to be "furnished" by the Government) to the contractor the items listed below for use in connection with the performance of this contract, and that an appropriate written agreement of bailment will be entered into by and between the parties hereto for that purpose. In the event of delay or failure of the Government to loan such property, as aforesaid, the provisions of the clause of this contract entitled "Government-Furnished-Property" or "Government Property" relating to failure or delay in the furnishing of property, shall be applicable. (List items.)

(b) In those cases where it is difficult to anticipate the bailment requirements at the time of execution of the prime contract, the following alternate clause is authorized for use:

It is anticipated that the Government may lend to the contractor such Government property of the categories specified herein as may from time to time be deemed by the contracting officer to be necessary in the interest of the Government to so furnish: *Provided, however*, That the effect of such bailment upon the contract price (or in the case of CPFF contracts, "fixed fee") shall be adjusted in accordance with the procedure set forth in the changes clause of this contract, and the contract amended accordingly by a Supplemental Agreement or Change Order hereto prior to the payment of contractor's final invoice under this contract. Any property bailed pursuant to this paragraph shall be made available to the contractor only for the purpose of this contract. Any property bailed pursuant to this paragraph shall be made available to the contractor only under the provisions of a separate Bailment Agreement or Agreements and this contract shall not be construed as effecting or committing the Government to the bailment of such property. (List categories.)

(c) General bailment clauses other than the one set forth in paragraph (b) of this section, may not be used in prime

contracts unless such clauses provide that prior to final payment contractual recognition shall be given to the effect of such bailment upon the contract price or the fixed fee.

(d) Provisions for reimbursing the contractor for costs incurred in connection with bailed property during the period of bailment, including but not limited to furnishing fuel, lubricants, and coolants for aircraft, are matters requiring coverage in the prime contract prior to final payment and shall not be included in the bailment agreement.

[SEAL] K. E. THIEBAUD,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 53-4727; Filed, May 29, 1953; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—National Production Authority, Department of Commerce

[NPA Order M-88, Direction 1 of May 29, 1953]

M-88—ALUMINUM DISTRIBUTORS

DIR. 1—EX-ALLOTMENT SALE OF EXCESS INVENTORY BY ALUMINUM DISTRIBUTORS

This direction under NPA Order M-88 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives was rendered impracticable because of the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Definition.
3. Aplicability of other regulations and orders.
4. Sales by distributors of excess inventory.
5. Application to certain rated orders.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong., 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp., sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp., secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. *What this direction does.* This direction authorizes aluminum distributors to deliver certain aluminum in their inventories against unrated orders. It also authorizes purchase and use of such aluminum without charging allotment authority except under certain designated circumstances.

SEC. 2. *Definition.* As used in this direction, "unrated order" means a delivery order for aluminum controlled materials which is not an authorized controlled material order, but which may be placed and accepted pursuant to the provisions of this direction.

SEC. 3. *Applicability of other regulations and orders.* The provisions of all CMP regulations and of all other NPA regulations and orders, including the directions and amendments thereto, as heretofore issued, are superseded to the extent to which they are inconsistent with the provisions of this direction. In all other respects, the provisions of all NPA regulations and orders heretofore issued shall remain in full force and effect.

SEC. 4. *Sales by distributors of excess inventory.* Notwithstanding the provisions of section 8 of NPA Order M-5, an aluminum distributor may sell and deliver against unrated orders that quantity of each form or shape of aluminum, as listed in paragraph (b) of section 2 of NPA Order M-88, which is in his inventory and which exceeds the total quantity of such form or shape delivered by him against authorized controlled material orders during the two preceding calendar months. Any person may place unrated orders with an aluminum distributor calling for delivery on and after the effective date of this direction of any aluminum which such distributor is authorized to sell pursuant to this direction. Any person who acquires aluminum pursuant to this direction may use such aluminum for any purpose not prohibited by any regulation or order of NPA. Except as provided in section 5 of this direction, such person need not charge such aluminum against any allotment or authority to place orders for aluminum controlled materials (including automatic allotment, self-authorization, and quota)

SEC. 5. *Application to certain rated orders.* Any person who acquires any aluminum pursuant to this direction for fulfilling a rated order or an authorized construction schedule bearing a program identification consisting of the letter A, B, C, or E, and one digit (including the program identification B-5 where it appears as a suffix) or who uses any aluminum acquired pursuant to this direction in fulfilling such an order or schedule, must charge the aluminum so acquired or used against the related allotment or authority to place orders for aluminum controlled materials (including automatic allotment, self-authorization, and quota)

This direction shall take effect May 29, 1953.

NATIONAL PRODUCTION AUTHORITY,
By GEORGE W AUXIER,
Executive Secretary.

[F R. Doc. 53-4802; Filed, May 29, 1953; 10:34 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 20—SPECIAL REGULATIONS

EVERGLADES NATIONAL PARK; PROHIBITED CONVEYANCES

Paragraph (e) *Prohibited conveyances,* of § 20.45 *Everglades National Park* is amended to read as follows:

(e) *Prohibited conveyances.* No vehicle or conveyance, including conveyances commonly referred to as "glado buggies" or "airboats," designed to operate in, on, or over waters, swamps, or land areas, may be operated upon or across federally owned lands, including swamps and watered areas, unless prior authorization has been obtained from the Superintendent. This restriction shall not apply, however, to boats operated by oars, sails, or underwater propellers.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 26th day of May 1953.

DOUGLAS MCKAY,
Secretary of the Interior

[F. R. Doc. 53-4729; Filed, May 29, 1953; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 971]

[Docket No. AO-175-11]

HANDLING OF MILK IN DAYTON-SPRINGFIELD, OHIO, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT, AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Par 900) notice is hereby given of a public hearing to be held at the Dayton Biltmore Hotel, 210 North Main Street, Dayton, Ohio, beginning at 10:00 a. m., E. S. T., June 5, 1953, for the purpose of receiving evidence with respect to proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Dayton-Springfield, Ohio, marketing area.

These proposed amendments have not received the approval of the Secretary of Agriculture.

Proposed by Miami Valley Milk Producers Asociation:

1, Amend § 971.50 (c) (2) to read as follows:

(2) From the weighted average of carlot prices per pound for spray process nonfat dry milk solids for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for

the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the U. S. Department of Agriculture, deduct 5.5 cents and multiply the result by 8.2.

2. Amend § 971.53 (b) to read as follows:

(b) The price per hundredweight of skim milk shall be computed by calculating the arithmetical average of the carlot prices per pound of roller process nonfat dry milk solids in barrels for human consumption at Chicago for the week ending within such months as reported by the Department of Agriculture, deduct 5.5 cents and multiply the result by 8.2, and then divide the amount so computed by 0.965: *Provided,* That for each of the months of March through August, 20 cents shall be subtracted from the amount so computed.

Copies of this notice of hearing, the said order, as amended, and the said marketing agreement may be procured from the Market Administrator, 434 Third National Bank Building, Dayton, Ohio, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: May 27, 1953.

[SEAL] GEORGE A. DICE,
Acting Assistant Administrator

[F. R. Doc. 53-4751; Filed, May 29, 1953; 8:51 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 18, 25, 43, 49, 54, 60]

CHIEF, FOREST SERVICE

SPECIAL CIVIL AIR REGULATION GRANTING AUTHORITY TO DEVIATE FROM CIVIL AIR REGULATIONS

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board the adoption of a Special Civil Air Regulation authorizing the Forest Service to deviate from the provisions of the Civil Air Regulations and the normal practices thereunder when necessary in their operations.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rule, communications must be received by June 15, 1953. Copies of such communications will be available after June 17, 1953 for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

The Forest Service of the United States Department of Agriculture uses both public and civil aircraft to carry personnel and equipment to fire areas. The aircraft, pilots, and parachutes are certificated and, where possible, Forest Service operations are conducted in accordance with the Civil Air Regulations. In order to deal effectively with fire control and other Forest Service specialized activities, however, it is often necessary to use uncertificated personnel as parachute riggers during peak-load periods, to remove the seats and safety belts from aircraft in which fire fighters are carried, to drop equipment and supplies from aircraft, and to deviate from other provisions of the Civil Air Regulations such as minimum altitudes and visibility conditions. Due to the exigencies of the particular situation, it is usually impracticable for the Forest Service to seek authority in each particular instance to deviate from the provisions of the Civil Air Regulations. In view of the public service rendered by this organization and the well organized supervisory control which the Forest Service exercises over its operations, it appears desirable to promulgate a Special Civil Air Regulation authorizing the Forest Service to deviate from the Civil Air Regulations and normal practices thereunder when necessary for their operations.

Accordingly, it is proposed that a Special Civil Air Regulation be promulgated to read as follows:

Contrary provisions of the Civil Air Regulations notwithstanding, the Chief, Forest Service, U. S. Department of Agriculture, is authorized to permit aircraft and airmen while engaged in operations conducted for the United States Forest Service to deviate from the provisions of the Civil Air Regulations to the extent that he finds necessary or desirable for the expeditious conduct of such operations. The Chief, Forest Service, shall notify the Administrator of any deviation which he has authorized and the reasons therefor in accordance with a procedure established by the Administrator.

This regulation is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comments received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601-610, 52 Stat. 1007-1012, as amended; 49 U. S. C. 551-560)

Dated: May 26, 1953, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 53-4748; Filed, May 29, 1953; 8:51 a. m.]

NOTICES

DEPARTMENT OF DEFENSE

Department of the Army

STATEMENT OF ORGANIZATION AND FUNCTIONS

AGENCIES DEALING WITH THE PUBLIC; OFFICE OF QUARTERMASTER GENERAL

Statement of Organization and Functions, published in 15 F. R. 551, February 1, 1950, and amended in 15 F. R. 6917, October 14, 1950 and in 16 F. R. 3361, April 17, 1951, is further amended by changing subparagraphs (1) through (8) of paragraph (i), section 2, to read as follows:

SEC. 2. *Organization and functions of agencies dealing with the public.* * * *

(i) *Office of the Quartermaster General*—(1) *Mission.* Under the direction and control of the Assistant Chief of Staff, G-4, The Quartermaster General provides and services food, clothing, equipment, and supplies for the Army, as assigned to The Quartermaster General, and as assigned for the Navy, Air Force, and other logistical programs. Provides for the care and disposition of the remains and personal effects of deceased personnel of the Army and, as directed or agreed upon, the remains and personal effects of personnel of the Navy or Air Force, and for general supervision of the operation of national cemeteries.

(2) *Origin.* (i) The Quartermaster Corps, originally the Quartermaster Department, was established June 16, 1775 by the Continental Congress which, in addition to authorizing a Quartermaster General, provided for appointment of a Commissary-General of Stores and Provisions. In 1777, there were authorized a Commissary General with four deputies, a Commissary General of issues with three deputies, and a Commissary General of clothing.

(ii) After the Revolutionary War, the Congress in 1785 curtailed Quartermaster Department activities and authorized procurement through civilians known as "contractors of provisions." In 1812, Congress reconstituted the Quartermaster Department. During the Civil War, responsibility for the operation of ocean, rail and water transportation became additional functions of the Quartermaster Department. In 1912, Congress consolidated the Quartermaster, Subsistence, and Pay Departments, and established what was then the Quartermaster Corps.

(3) *World War I.* World War I brought the first steps toward mechanization of the Army. The Quartermaster Corps created bakery, butcher, ice plant, labor, and motor truck companies; clothing units; mechanical repair shops; salvage units; and graves registration units; and trained the personnel for field activities. The size of the Army and the distance of combat activities from the continental United States increased Quartermaster Corps procurement and storage activities to proportions in excess of all combined prior operations.

(4) *World War II.* In World War II motor transport, construction, and utilities, as well as the function of trans-

portation were assigned to other Army agencies. The Quartermaster Corps devoted its major interest to providing the Army with items of food, clothing, and equipment necessary to the personnal maintenance of military personnel and which would contribute to their personal comfort and well-being. The remoteness of the battlefronts, the unprecedented size of the Army, and the requirement for approximately 70,000 different items of quartermaster origin brought the Quartermaster Corps to peak (1945) expansion; 54 general officers, 30,744 other officers, and 467,266 enlisted.

(5) *Legal basis.* The authority for assignment of general powers and duties to the Quartermaster General by this paragraph is contained in section 206 (c) Army Organization Act of 1950 (64 Stat. 267; 10 U. S. C. 21f (c)).

(6) *Dual role of the Quartermaster General*—(i) *Staff advice.* The Quartermaster General provides administrative and technical advice and recommendations relating to quartermaster matters to the Secretary of the Army, the Chief of Staff, and the General and Special Staffs.

(ii) *Command.* For the execution of the Quartermaster Corps mission, the Quartermaster General commands all troops, activities, and installations assigned to his command jurisdiction.

(7) *Major functions*—(i) *Supply* Budgets for, procures, inspects, stores, maintains, distributes, and/or disposes of those items of equipment and supplies assigned to the Quarermaster Corps.

(ii) *Installations and separate activities.* Commands all class II installations (including general depots) and class II activities under the jurisdiction of the Quartermaster General.

(iii) *Industrial mobilization.* Collaborates with other Military Department and Army agencies in the formulation and execution of plans, policies, and programs for industrial mobilization pertaining to quartermaster materiel, supplies, resources, and facilities to support Army plans for industrial mobilization.

(iv) *Standardization of materiel.* Administers matters of standardization of quartermaster materiel and equipment preliminary to departmental approval, and conducts and monitors certain standardization studies for the Department of Defense.

(v) *Procedures and standards.* Formulates and establishes, in coordination with other Army agencies, quartermaster procedures and standards.

(vi) *Mobilization and training.* Effects the selection and assignment of Quartermaster-Army Reserve mobilization designations; implements the Quartermaster Army Reserve affiliation program; aids in formulation of policies affecting quartermaster civilian component activities; trains quartermaster units assigned to quartermaster control, and establishes and operates schools and facilities for the technical training of quartermaster personnel.

(vii) *Food service.* Administers the food service program.

(viii) *Deceased personnel.* Exercises staff and technical supervision over the care and disposition of the remains and personal effects of deceased Army personnel, and over search, recovery identification, processing, and disposition of remains of deceased members of the Armed Forces in support of major military operations. Exercises general supervision of the operation of national cemeteries and provides headstones and markers as authorized.

(ix) *Research and development.* Plans, coordinates, and conducts research and development on new and/or improved equipment, supplies, materiels, and in fields for which the Quartermaster General has assigned responsibilities.

(x) *Intelligence.* Produces and maintains intelligence regarding foreign countries as required for Quartermaster Corps planning and operations for the Department of the Army and other agencies as directed; exercises technical supervision over the collection and exploitation of quartermaster intelligence information in theaters of operations.

(8) *Organization*—(i) *Special Assistant.* Insures policy coordination of information pertaining to activities under the jurisdiction of the Quartermaster General and performs such other duties as the Quartermaster General may assign.

(ii) *Office of Plans.* Develops plans and policies for the Quartermaster Corps in support of the mission of the Army, to include Quartermaster Corps plans and policies for civil defense and disaster relief.

(iii) *Office of the Inspector General.* Schedules, supervises, and directs such inspections and investigations, as provided by Army Regulations, which are the responsibility of the Quartermaster General and conducts additional inspections and investigations as directed by the Quartermaster General.

(iv) *Office of the General Counsel.* (*a*) Acts for the Quartermaster General in the direction and coordination of legal activities throughout the Quartermaster Corps, and establishes and publishes policies, practices, and procedures.

(*b*) Exercises technical supervision over legal staffs at field installations.

(*c*) Renders advice and assistance on legal matters to elements of the Quartermaster Corps, and determines what legal matters shall be submitted to the Judge Advocate General.

(v) *Comptroller.* Directs, coordinates, and supervises the activities of the Management Division and the Budget and Fiscal Division.

(vi) *Management Division.* Provides a management consulting service to the Office of the Quartermaster General and to quartermaster field installations on questions of policy, organization, procedures, and controls in the Quartermaster Corps; supervises and coordinates the Cost Consciousness Program within the Quartermaster Corps; performs over-all program review and analysis by statistical methods; conducts quartermaster system wide reports and forms control program.

(vii) *Budget and Fiscal Division.* (*a*) Supervises the preparation and justification of the quartermaster portion of the annual Army budget.

(*b*) Secures and supervises the distribution of the Quartermaster Corps funds.

(*c*) Supervises and controls the utilization of financial resources available to the Quartermaster Corps.

(*d*) Maintains the basic fiscal records of the Quartermaster Corps.

(*e*) Formulates, coordinates, and implements fiscal, cost, property accounting, financial accounting, financial management, and related policies and procedures.

(*f*) Exercises staff supervision incident to payment of the Quartermaster Corps commercial accounts and reimbursement transactions.

(*g*) Exercises technical supervision over fiscal activities at Quartermaster field installations.

(*h*) Directs the development, execution, review, and analysis of the Quartermaster Corps activities of the primary programs of the Army.

(*i*) Interprets and amplifies basic Department of the Army plans and objectives to provide a uniform basis for budget and program action by the various offices of the Quartermaster General divisions.

(viii) *Deputy for Administration.* Directs, coordinates, and supervises the activities of the Administrative, Personnel and Training, Food Service, and Memorial Divisions, and the Provost Marshal.

(ix) *Provost Marshal.* Contributes to the effective and safe operation of quartermaster class II installations and activities through the prevention and/or detection of criminal activities and physical security hazards and the elimination of physical security deficiencies.

(x) *Administrative Division.* (*a*) Provides the Office of the Quartermaster General with all general office services, including distribution and collection of mail and messages, centralized filing, storage and issue of publications, issue of office supplies, and other administrative services.

(*b*) Controls all top secret, registered, and specially classified documents within the Office of the Quartermaster General.

(*c*) Edits and controls the Quartermaster Corps publications.

(*d*) Conducts records administration for the Quartermaster General.

(*e*) Administers policies with respect to field printing and directs the procurement of printed matter.

(*f*) Compiles historical data concerning the Quartermaster Corps activities.

(*g*) Exercises staff supervision over administrative officers of all divisions of the Office of the Quartermaster General, except in personnel matters.

(*h*) Prepares manual of office procedures.

(*i*) Controls and coordinates TWX conferences for the Office of the Quartermaster General.

(*j*) Provides security for the Office of the Quartermaster General and develops plans and policies to implement intelligence missions of the Quartermaster General.

(xi) *Personnel and Training Division.* (*a*) Provides personnel, both civilian and military, for staffing at the Quartermaster Corps activities in continental United States and overseas.

(b) Conducts civilian training programs.

(c) Provides plans, policies, and supervision for training quartermaster service personnel.

(d) Performs staff functions in connection with securing personnel authorization, and subauthorizes personnel to activities and installations under the jurisdiction of the Quartermaster General.

(e) Provides and coordinates career planning for military personnel in all fields for which the Quartermaster General is monitor.

(f) Provides a concept of operations and organization of quartermaster and branch immaterial units.

(g) Provides and maintains tables of allowances for issue of quartermaster items.

(h) Provides issue control of quartermaster equipment included in all Department of the Army equipment authorization documents.

(i) Coordinates training aspects of the Cost Consciousness Program.

(xii) *Food Service Division.* (a) Performs staff functions in connection with administration of the food service program.

(b) Maintains technical control of the utilization of refrigerated space for the storage of subsistence.

(c) Prepares master menus and special menus and formulated policies for mess supervision, mess management, and operation of centralized food service activities.

(d) Collaborates with the Personnel and Training Division in the preparation of training manuals and courses of instruction that pertain to the food service program.

(e) Furnishes food consultant services on food administration in occupied areas and on matters of food composition in Army operations with foreign governments and domestic governmental agencies.

(f) Furnishes technical assistance in the preparation and installation of layout plans for messing equipment and reviews new projects.

(g) Collaborates with other governmental agencies on the nutritional adequacy of menus.

(h) In collaboration with the Distribution Division, prepares, reviews, and analyzes ration scales for the Army and foreign nationals and recommends necessary adjustments in ration scales.

(xiii) *Memorial Division.* (a) Coordinates interdepartmentally in matters pertaining to doctrine and policy, mortuary facilities, services, supplies, and allowances, and the administration and operation of post and installation cemeteries.

(b) Exercises staff and technical supervision over search, recovery, identification, and temporary interment of remains of deceased personnel of the Armed Forces whose deaths occur as a result of major military operations, and direction of final disposition thereof from overseas.

(c) Furnishes Government headstones and markers for the unmarked graves of deceased members and former members of the Armed Forces.

(d) Directs the memorialization of World War, II nonrecoverable deceased personnel of the Armed Forces in accordance with the act July 1, 1948 (24 U. S. C. 279a; 62 Stat 1215)

(e) Exercises staff and technical supervision over care and disposition of remains of deceased Army personnel whose deaths occur other than as a result of major military operations and directs disposition of remains of such deceased Army and Air Force personnel from overseas.

(f) Exercises general supervision over establishment, operation, and maintenance of cemeteries and burial grounds, (except post cemeteries) under the jurisdiction of the Secretary of the Army.

(g) Develops and coordinates policies and procedures for recovery and disposition of personal effects of Army deceased, missing in action, and POW personnel during major military operations, and exercises staff and technical supervision over the Army Effects Agency.

(xiv) *Deputy for Operations.* Directs, coordinates, and supervises the activities of the Procurement, Distribution, Research and Development, and Field Service Divisions.

(xv) *Field Service Division.* (a) Supervises programs and procedures for the storage and handling of quartermaster supplies at quartermaster controlled installations, and provides technical assistance and guidance in this respect to all Army installations in the continental United States and overseas.

(b) Administers the Department of Defense Commercial Warehouse Service Plan.

(c) Exercises staff and technical supervision over the operation of quartermaster laundries and dry-cleaning plants.

(d) Inspects quartermaster maintenance repair shops, laundries, and dry-cleaning plants at all Army stations in the continental United States and overseas to insure compliance with established policy.

(e) Controls the operation of classification, maintenance, and manufacturing facilities under the jurisdiction of the Quartermaster General.

(f) Supervises all operations relating to remount activities.

(g) Acts for the Quartermaster General in all matters relating to the transportation of quartermaster supplies in the continental United States.

(h) Prepares instructions for the storage and disposition of stored organizational and historical trophies.

(i) Determines, in relation to assigned and planned missions, necessity for new construction, alterations to building and facilities, and the lease and purchase of real estate, buildings, and installed facilities at class II installations under the control of the Quartermaster General and submits requirements to the Corps of Engineers for approval and processing.

(j) Reviews master plans for all quartermaster class II installations and coordinates master planning at general depots with other technical services.

(k) Reviews requirements for repairs and utilities projects required to support any mission at quartermaster class II installations and recommends allocation of funds.

(l) Exercises staff and technical supervision over the quartermaster field safety program as provided in Army Regulations.

(xvi) *Research and Development Division.* (a) Provides plans and direction for a research and development program as assigned to the Quartermaster Corps.

(b) Provides for specification writing and coordination.

(c) Provides heraldic service for the Department of Defense.

(d) Exercises staff supervision and technical direction over programs and operations of the Quartermaster Corps field research and development laboratories.

(e) Exercises technical supervision and direction of the activities of the Quartermaster Board.

(f) Provides secretariat services for the Quartermaster Corps Technical Committee.

(xvii) *Distribution Division.* (a) Exercises staff supervision and control over the supply of quartermaster items.

(b) Directs the procurement of perishable subsistence, some foreign aid items, petroleum, and like products.

(c) Formulates, coordinates, and establishes supply plans, policies, and procedures covering computation of requirements, distribution, and issue for quartermaster supplies, and directs operations incident thereto.

(d) Prepares budget estimates covering the above activities and administers the funds.

(e) Administers foreign aid programs assigned to the Quartermaster Corps.

(xviii) *Procurement Division.* (a) Establishes purchase and related policies and procedures for the Quartermaster Corps.

(b) Plans, directs, and controls the purchase of items for which the Quartermaster Corps has purchase responsibility, with the exception of those items for which the Division has technical supervision only.

(c) Plans and directs the purchase, by other agencies, of items for the Quartermaster Corps.

(d) Exercises staff supervision over all Quartermaster Corps field purchasing activities.

(e) Initiates, promulgates, and coordinates over-all policies, plans, and operating methods and procedures governing Quartermaster Corps industrial mobilization planning activities.

(f) Administers the priorities and allocations systems and the Controlled Materials Plans for the Quartermaster Corps.

(g) Coordinates single department purchase assignments and interdepartmental, and interservice procurement assignments, except coordination required in connection with assignment of logistics responsibilities.

* * * * *

[SEAL] WIL E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 53-4745; Filed, May 29, 1953; 8:50 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[Amdt. 17]

ORGANIZATION AND FUNCTIONS

AVIATION SAFETY DISTRICT OFFICE, EUGENE, OREG.

In accordance with the public information requirements of the Administrative Procedure Act, the description of Organization and Functions of the Civil Aeronautics Administration is hereby amended. The purpose of this amendment is to publish a change in address of the Aviation Safety District Office at Eugene, Oregon. Section 43 (h) (4) (ii) published on May 14, 1953, in 18 F. R. 2804 is amended to read:

SEC. 43. *Regions 1–6.* * * *

(h) *Aviation Safety Division.* * * *

(4) *Aviation Safety District Offices.* * * *

(ii) *Locations.* * * *

REGION 4

* * *

Oregon	G	Eugene	Administration Bldg., Mahlon-Sweet Airport.
	G	Portland	Service Office Bldg., 5410 Northeast Marine Dr.

This amendment shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 53–4728; Filed, May 29, 1953; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 5995]

FRONTIER AIRLINES, INC. AND UNITED AIR LINES, INC.

NOTICE OF HEARING

In the matter of the application of Frontier Airlines, Inc., for an extension of the suspension of United Air Lines, Inc., at Rock Springs, Wyoming, for the period beyond March 31, 1953, through March 31, 1955.

Notice is hereby given that, pursuant to the Civil Aeronautics Act of 1938, as amended, a public hearing is assigned to be held in the above-entitled proceeding on June 25, 1953, at 10:00 a. m. (Rocky Mountain Standard Time) in the City Council Chambers of the City Hall, Rock Springs, Wyoming, before Examiner Ferdinand D. Moran.

Dated at Washington, D. C., May 27, 1953.

[SEAL] FRANCIS W BROWN,
Chief Examiner.

[F. R. Doc. 53–4747; Filed, May 29, 1953; 8:51 a. m.]

[Docket No. 6098 et al.]

STANDARD-COACH FARE INVESTIGATION

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on June 16, 1953, at 10:00 a. m., e. d. s. t., in Room E–210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Paul N. Pfeiffer.

Dated at Washington, D. C., May 26, 1953.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 53–4738; Filed, May 29, 1953; 8:47 a. m.]

[Reg. No. SR–394]

PAN AMERICAN-GRACE AIRWAYS, INC.

SPECIAL CIVIL AIR REGULATIONS; PILOT FLIGHT TIME LIMITATIONS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 25th day of May 1953.

Section 41.54 (a) of Part 41 of the Civil Air Regulations currently provides that in aircraft having a crew of one or two pilots a pilot may be scheduled to fly 8 hours or less during any 24 consecutive hours without a rest period; that if he is scheduled to fly in excess of 8 hours during any 24 consecutive hours, he must be given an intervening rest period at or before the termination of 8 scheduled hours of flight duty and that this rest period must equal at least twice the number of hours flown since the last preceding rest period, and in no case will such rest period be less than 8 hours.

Section 41.54 (b) currently provides that when a pilot has flown in excess of 8 hours during any 24 consecutive hours he must receive at least 18 hours of rest before being assigned any duty with the air carrier.

Pan American-Grace Airways, Inc. (Panagra) has filed a request for authority to deviate from the flight time limitations of § 41.54 of Part 41 of the Civil Air Regulations on their flights from Santa Cruz, Bolivia, to Puerto Suarez, Bolivia, and return. At present Panagra schedules, three times each week, a one-day flight from Santa Cruz to Puerto Suarez and return, which is the last leg of scheduled operations connecting, among others, the cities of La Paz, Bolivia, and Lima, Peru. These flights are now being made under the flight time limitations of § 41.54.

In support of the Panagra proposal it appears desirable to overnight crew members at Santa Cruz, Bolivia, because of the more satisfactory accommodations at that location for crew members. Other points along the route which would be available are at unusually high elevations at which proper accommodations, including wholesome food and water, and facilities for recreation are generally unavailable. However, if crew members remain overnight at Santa Cruz, Bolivia, the present regulation requires rest periods which interfere with advantageous scheduling of flights departing from Santa Cruz. If the departure time of the Santa Cruz-Puerto Suarez-Santa Cruz flight is changed to a later time to allow the rest period required by the regulation, it would bring the flight back to Santa Cruz only 40 minutes before sunset in the short season. Since airports along this route are not regularly lighted for night operation this is considered an inadequate margin for safety. To advance the departure time of the flight from Lima is considered undesirable for it would in effect deprive the public en route to Bolivia of the one-day connecting service from the United States. It further appears that the trips on the route segment to and from Lima, Santa Cruz, and Puerto Suarez are generally conducted under VFR conditions and light airway traffic so that there is less strain on the pilots than usually occurs under IFR conditions and the attendant holding procedures. In addition, the facilities for the housing of crew members at Santa Cruz are located at the airport so that a pilot need not spend appreciable time in travel between the airport and the rest facilities.

In view of the foregoing the Board considers that safety will not be compromised in this instance by permitting Pan American-Grace Airways, Inc. to arrange its schedules so that during the layovers at Santa Cruz, Bolivia, pilots may be utilized to fly after a minimum of 12 hours actual rest period.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. Since this amendment imposes no additional burden on any person, it may be made effective without prior notice.

Accordingly, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective immediately:

Contrary provisions of § 41.54 of Part 41 of the Civil Air Regulations notwithstanding, Pan American-Grace Airways, Inc., is authorized to utilize pilots to fly on the overall flight from Lima, Peru-Santa Cruz, Bolivia-Puerto Suarez, Bolivia, and return with a minimum of 12 hours actual rest at Santa Cruz after the Lima-Santa Cruz leg of the flight and with a minimum of 12 hours actual rest at Santa Cruz after the Puerto Suarez-Santa Cruz leg of the flight.

This regulation shall be effective for a period of one year from the date of adoption providing that there is no major change in the conditions under which the regulation was adopted, unless sooner superseded or rescinded by the Board.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 53–4749; Filed, May 29, 1953; 8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28107]

ASPHALT FILLER FROM MARSHALL AND REDMON, N. C., TO OFFICIAL AND ILLINOIS TERRITORIES

APPLICATION FOR RELIEF

MAY 26, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-

haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedules listed below.

Commodities involved: Asphalt filler, consisting of pulverized soapstone or talc tailings, carloads.

From: Marshall and Redmon, N. C.

To: Points in official and Illinois territories.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1351, Supp. 8. C. A. Spaninger, Agent, I. C. C. No. 1324, Supp. 26.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, *Acting Secretary.*

[F. R. Doc. 53-4708; Filed, May 28, 1953; 8:47 a. m.]

[4th Sec. Application 28114]

STEEL OR WROUGHT IRON PIPE FROM FORT MADISON, IOWA, TO SOUTHWEST

APPLICATION FOR RELIEF

MAY 26, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Steel or wrought iron pipe and related articles, carloads.

From: Fort Madison, Iowa.

To: Points in the Southwest.

Grounds for relief: Rail competition, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: F C. Kratzmeir, Agent, I. C. C. No. 3982, Supp. 32.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-4715; Filed, May 28, 1953; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2230]

CALIFORNIA ART TILE CORP.

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

MAY 26, 1953.

The San Francisco Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to strike from listing and registration the $1.75 Cumulative Convertible Class A Stock, No Par Value, and the Class B Stock, No Par Value, of California Art Tile Corporation.

The application alleges that the reason for striking these securities from listing and registration on this exchange is that the issuer has failed to file with applicant exchange the Annual Financial Statement for the fiscal year ended September 30, 1952, and has failed to distribute such Annual Report to its shareholders in accordance with its Listing Agreements.

Applicant exchange suspended each of the above securities from trading on April 23, 1953.

Upon receipt of a request, prior to June 17, 1953, from any interested person for a hearing in regard to terms to be imposed upon the delisting of these securities, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms or conditions. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-4731; Filed, May 29, 1953; 8:46 a. m.]

[File Nos. 2-6166, 2-6031]

TRI-CONTINENTAL CORP. ET AL.

NOTICE OF APPLICATION

MAY 25, 1953.

In the matter of Tri-Continental Corporation, General Shareholdings Corporation, and Capital Administration Company, Ltd., File Nos. 2-6166, 2-6031.

Notice is hereby given that Tri-Continental Corporation (Tri-Continental) has filed an application under clause (ii) of section 310 (b) (1) of the Trust Indenture Act of 1939 for a finding by the Commission that the trusteeship of Guaranty Trust Company (Guaranty) of New York under (1) an indenture dated as of March 1, 1946, executed by Tri-Continental with Guaranty, as Trustee; (2) an indenture dated as of December 1, 1945, executed by General Shareholdings Corporation (General) with Guaranty as Trustee, as supplemented by a supplemental indenture dated October 1, 1948, executed by Tri-Continental with Guaranty, as Trustee, for which an exemption was granted November 2, 1948; and (3) an indenture dated as of August 1, 1945, executed by Capital Administration Company, Ltd. (Capital) with Guaranty, as Trustee, as supplemented by a supplemental indenture dated as of April 8, 1953, executed by Tri-Continental with Guaranty, as Trustee, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Guaranty from acting as Trustee under any of the three indentures, as supplemented. The aforesaid indentures are hereinafter referred to as the Tri-Continental Indenture, the General Indenture and the Capital Indenture, respectively.

The Tri-Continental Indenture and the General Indenture (prior to the execution of the Tri-Continental supplemental indenture) have been qualified under the act. Neither the original Capital Indenture nor the Capital Indenture as supplemented by Tri-Continental has been qualified under the act.

Section 310 (b) of the act provides in part that if an indenture trustee under an indenture qualified under the act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions not here applicable, that a trustee is deemed to have a conflicting interest if it is acting as trustee under a qualified indenture of an obligor and becomes trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1) there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under a qualified indenture and another indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors

to disqualify such trustee from acting as trustee under one of such indentures. This provision was incorporated in the Tri-Continental Indenture and the General Indenture.

The application shows:

1. That Tri-Continental has outstanding:

(a) $7,360,000 principal amount of its 2⅞ percent debentures, due March 1, 1961, which were issued under the Tri-Continental Indenture;

(b) $2,650,000 principal amount of 3 percent Debentures, due December 1, 1960, which were issued under the General Indenture and which were assumed by Tri-Continental in the merger of General into Tri-Continental which became effective October 1, 1948; and

(c) $6,900,000 principal amount of 2⅞ percent Debentures due April 1, 1961, which were issued under an indenture dated as of April 1, 1946, executed by Selected Industries Incorporated with the Marine Midland Trust Company of New York, as Trustee (Selected Indenture) and which were assumed by Tri-Continental in the merger of Selected into Tri-Continental which became effective March 31, 1951;

2. That the Commission on November 2, 1948, granted an application for exemption under section 310 (b) (1) (ii) of the act for Guaranty to continue to act as Trustee under the Tri-Continental Indenture and the General Indenture;

3. That Capital had outstanding $1,150,000 principal amount of its 3 percent Debentures due August 1, 1960, which were issued under the Capital Indenture;

4. That on April 8, 1953, Capital was merged into Tri-Continental pursuant to an agreement of merger approved by the stockholders of Tri-Continental and the stockholders of Capital on March 31, 1953, and April 7, 1953, respectively;

5. That the Agreement of Merger provided among other things, that on the effective date of the merger Tri-Continental would thenceforth be responsible for all debts, liabilities, obligations and duties of Capital in respect of its 3 percent Debentures due August 1, 1960;

6. That thereupon in accordance with the terms of the Capital Indenture, Tri-Continental executed and delivered to Guaranty as Trustee under said indenture, a supplemental indenture dated as of April 8, 1953, pursuant to which Tri-Continental assumed the payment of the principal, premium, if any, and interest on all outstanding debentures of Capital issued under the indenture, and the due and punctual performance of all the covenants and conditions of the Indenture to be performed by Capital;

7. That neither the original Capital Indenture nor the Indenture as supplemented by Tri-Continental, has been qualified under the act;

8. That the Tri-Continental Indenture, the General Indenture and the Capital Indenture are all wholly unsecured;

9. That aside from inherent differences among the Tri-Continental Indenture, General Indenture and Capital Indenture as to amounts, dates, interest rates and certain other figures, most of the provisions of said indentures, including the particular covenants of the respective issuers which apply to the future, are substantially identical, and the differences existing between the Tri-Continental Indenture, the General Indenture and the Capital Indenture are not likely to involve a conflict of interest in the Trustee; and

10. That on the effective date of the merger, April 7, 1953, of Tri-Continental and Capital, applicant was not in default under the Tri-Continental Indenture, the General Indenture or the Selected Indenture and Capital was not in default under the Capital Indenture, nor did the consummation of merger constitute a default under any of said indentures.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 425 Second Street NW., Washington, D. C.

Notice is further given that an order granting the application may be issued by the Commission at any time after June 12, 1953, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310 (b) (1) of the Trust Indenture Act of 1939. Any interested person may, not later than June 11, 1953, at 5:30 p. m., e. d. s. t., in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-4732; Filed, May 29, 1953; 8:46 a. m.]

[File No. 70-2977]

ELECTRIC BOND AND SHARE CO.

ORDER REGARDING APPLICATION TO ACQUIRE COMMON STOCK OF PORTLAND GAS & COKE CO.

MAY 25, 1953.

Electric Bond and Share Company ("Bond and Share") a registered holding company, having filed an application with the Commission pursuant to sections 9 (a) and 10 of the Public Utility Holding Company Act of 1935 ("act"), with respect to the proposed transactions which are summarized as follows:

Bond and Share is the owner of 183,050 shares, or approximately 7.8 percent, of the capital stock of American Power & Light Company ("American"), also a registered holding company. American owns 54,763 shares of the common stock of Portland Gas & Coke Company ("Portland") being 10 percent of the outstanding stock of Portland. The Commission, on March 31, 1953, approved a plan filed pursuant to section 11 (e) of the act, relating to the dissolution of American, and proposing in connection therewith the distribution to American's stockholders of their respective pro-rata shares of American's holdings of Portland stock.

Bond and Share proposes to acquire, pursuant to such plan of American, 4,255 shares of the common stock of Portland. Bond and Share proposes to dispose of such shares of common stock of Portland, in such manner as the Commission may permit, as soon as practicable, but in no event later than one year following the receipt thereof by Bond and Share (unless such time shall be extended by the Commission) in conformity with the intent of Bond and Share's Final Comprehensive Plan, as amended June 12, 1952 (File Nos. 54-127 and 59-12)

The application requests that the Commission issue its order as promptly as possible pursuant to the Commission's Rule U-23, and that the thirty-day waiting period be waived so that the Commission's order may be effective at the earliest practicable date.

Notice of the filing of said application having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to the act, and the Commission not having received a request for a hearing with respect thereto within the time specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that all of the applicable statutory standards are satisfied and that there is no basis for adverse findings, and deeming it appropriate in the public interest and in the interests of investors and consumers that said application be granted:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that the said application of Bond and Share be, and the same hereby is, granted, effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-4735; Filed, May 29, 1953; 8:47 a. m.]